



**Sean Rogan**  
Executive Director

**COMMUNITY DEVELOPMENT COMMISSION**  
**of the County of Los Angeles**

2 Coral Circle • Monterey Park, CA 91755  
323.890.7001 • TTY: 323.838.7449 • www.lacdc.org



**Gloria Molina**  
**Mark Ridley-Thomas**  
**Zev Yaroslavsky**  
**Don Knabe**  
**Michael D. Antonovich**  
Commissioners

# ADOPTED

Community Development Commission

July 19, 2011

The Honorable Board of Commissioners  
Community Development Commission of  
the  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

#1-D JULY 19, 2011

**SACHI A. HAMAI**  
EXECUTIVE OFFICER

Dear Commissioners:

**APPROVE DISPOSITION AND DEVELOPMENT AGREEMENT WITH YOUNG WOMEN'S  
CHRISTIAN ASSOCIATION OF GREATER LOS ANGELES TO DEVELOP PACIFIC BOULEVARD  
FAMILY DEVELOPMENT CENTER IN UNINCORPORATED WALNUT PARK  
(DISTRICT 1) (3 VOTE)**

**SUBJECT**

This letter recommends approval of a Disposition and Development Agreement with the Young Women's Christian Association of Greater Los Angeles, for the development of the Pacific Boulevard Family Development Center at 7515 Pacific Avenue in unincorporated Walnut Park.

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Approve and authorize the Executive Director or his designee to execute, and if necessary, amend or terminate a Disposition and Development Agreement between the Community Development Commission and the Young Women's Christian Association of Greater Los Angeles (Developer), to provide the Developer with up to \$1,204,452 of Project and Facility Development Fund to pay predevelopment and other project-related costs for the Pacific Boulevard Family Development Center (Project), located at 7515 Pacific Avenue in unincorporated Walnut Park.
2. Authorize the Executive Director or his designee to execute all related documents, including but not limited to a quitclaim deed to transfer the property to the Developer upon completion of transfer conditions specified in the Disposition and Development Agreement.
3. Authorize the Executive Director to incorporate up to \$1,204,452 into the Commission's Fiscal Year 2011-2012 approved budget for the purposes described above.

4. Find that approval of this Disposition and Development Agreement is exempt from the provisions of the California Environmental Quality Act (CEQA) because the project includes activities that will not have the potential for causing a significant effect on the environment.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The proposed Disposition and Development Agreement will allow for the development and construction rehabilitation of an existing building into a family development center. The property will be transferred to the Developer upon completion of transfer conditions specified in the Disposition and Development Agreement.

**FISCAL IMPACT/FINANCING**

There is no impact on the County general fund.

On December 14, 2010, your Board approved the acceptance of \$3,500,000 from First District Provisional Finance Unit funds into the Commission's Fiscal Year 2010-2011 budget to pay for predevelopment costs, including acquisition, consultants, planning, entitlement fees and other project-related costs. The Disposition and Development Agreement will be funded with \$1,204,452 of these funds, which will be incorporated into the Commission's Fiscal Year 2011-2012 budget.

The total development budget is estimated at \$9,253,213. Under the above Board action, \$3,500,000 was previously provided for this Project. The Commission will return to your Board to amend the Disposition and Development Agreement to request the funding balance needed to pay for construction rehabilitation and project-related costs.

A Financial Analysis is provided as Attachment A.

**FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The Project consists of the development and construction rehabilitation of an existing supermarket building into an approximately 13,900 square foot family development center at 7515 Pacific Boulevard, located west of Pacific Boulevard between Flower Street and Live Oak Street in unincorporated Walnut Park.

Under the proposed Disposition and Development Agreement, the Developer will develop the Project and oversee construction rehabilitation. Progress payments will be made to the Developer as phases of the Project are completed and approved by the Commission.

The family development center will include a childcare center that will serve a minimum of 50 children, and will provide a wide array of age-appropriate supportive services and resources to children, youth, and community members, including childcare, English as a Second Language classes, parenting classes, health and wellness classes, computer training, and other programs. After construction rehabilitation is completed and the Developer has complied with all state childcare licensing and other requirements, the Commission will transfer the property to the Developer to own and operate the facilities.

The Disposition and Development Agreement is presented in substantially final form. It will be effective following approval as to form by County Counsel and execution by all parties.

**ENVIRONMENTAL DOCUMENTATION**

This Project is exempt from the provisions of CEQA, pursuant to State CEQA Guidelines 15301, because it involves negligible or no expansion of use beyond what currently exists and does not have the potential for causing a significant effect on the environment.

The environmental review record for this Project is available for public viewing during regular business hours at the Commission's main office, located at 2 Coral Circle in Monterey Park.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Approval of the Disposition and Development Agreement will provide for the development and construction rehabilitation of an existing building into a family development center that will serve the local community.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sean Rogan", followed by a horizontal line extending to the right.

SEAN ROGAN  
Executive Director

SR:by

Enclosures

**Attachment A**  
**ESTIMATED BUDGET FOR**  
**PACIFIC AVENUE FAMILY DEVELOPMENT CENTER**

<u>COUNTY OF LOS ANGELES CAPITAL FUNDS</u>	<u>PHASE 1 FUNDING</u>	<u>PHASE 2 FUNDING</u>	<u>TOTAL</u>
	<u>PRE-DEVELOPMENT</u>	<u>REHABILITATION CONSTRUCTION / PERMANENT</u>	
<u>CDC Acquisition/Holding Costs</u>	<u>\$1,828,000</u>		<u>\$1,828,000</u>
<u>CDC/CMD Fees</u>	<u>\$467,548</u>	<u>\$112,452</u>	<u>\$580,000</u>
<u>CDC held Contingency for Project Development (Soft) Cost</u>	<u>\$60,000</u>	<u>\$40,000</u>	<u>\$100,000</u>
<u>Construction (Hard) Costs</u>		<u>\$342,131</u>	<u>\$1,486,583</u>
<u>TOTAL DEVELOPMENT COST</u>	<u>\$3,500,000</u>	<u>\$5,258,630</u>	<u>\$5,258,630</u>
<u>FUNDING TO DEVELOPER UNDER DDA (UP TO AMOUNTS SUBJECT TO BOARD APPROVAL)</u>	<u>\$1,204,452</u>	<u>\$5,640,761</u>	<u>\$6,845,213</u>



**DISPOSITION AND DEVELOPMENT AGREEMENT**  
**YWCA OF GREATER LOS ANGELES**  
**PACIFIC BOULEVARD FAMILY DEVELOPMENT CENTER**  
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## **SUMMARY OF DISPOSITION AND DEVELOPMENT AGREEMENT**

### **YWCA OF GREATER LOS ANGELES PACIFIC BOULEVARD FAMILY DEVELOPMENT CENTER**

This Summary of the Disposition and Development Agreement (“Summary”) is hereby incorporated by reference into the attached Disposition and Development Agreement (“Agreement”). Each reference in the Agreement to the Contract Terms set forth below, shall have the meaning described in this Summary. In the event of a conflict between the Contract Terms of this Summary and the Agreement, the Contract Terms herein shall prevail.

#### **CONTRACT TERMS**

#### **DESCRIPTION**

- |                          |   |
|--------------------------|---|
| 1. Effective Date:       | As defined in the Agreement.  |
| 2. Term:                 | Commencing on the Effective Date and continuing in perpetuity after the date of licensing by Community Care Licensing Division (“CCLD”) of the State of California and commencement of operation of a childcare center. |
| 3. CDC:                  | Community Development Commission (“CDC”) of the County of Los Angeles, a public body, corporate and politic   |
| 4. Address of CDC:       | 4800 E. Cesar E. Chavez Avenue<br>Los Angeles, CA 90022   |
| 5. Developer:            | YWCA of Greater Los Angeles, a California nonprofit public benefit corporation  |
| 6. Address of Developer: | 3345 Wilshire Blvd, Ste 300<br>Los Angeles, CA 90010  |

7. Project

7.1 Name: YWCAGLA Pacific Boulevard Family Development Center

7.2 Site/Property: 7515 Pacific Boulevard, Walnut Park, CA 90255

8. Purchase Amount: \$1.00

9. Recoverability of Site: Upon the occurrence of an Event of Default, Site shall revert to ownership by CDC.

10. Fee for CMD Services A portion of the Los Angeles County funds received shall be retained by CDC to pay the Construction Management Division ("CMD") of the CDC a minimum fee of \$580,000 for limited predevelopment, construction observation and labor compliance services.

## **DISPOSITION AND DEVELOPMENT AGREEMENT**

### **YWCA of Greater Los Angeles PACIFIC BOULEVARD FAMILY DEVELOPMENT CENTER**

This Disposition and Development Agreement (the "Agreement") for the YWCA of Greater Los Angeles Pacific Boulevard Family Development Center is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2011 ("Effective Date") between CDC and Developer. CDC and Developer are sometimes referred to in this Agreement, each individually, as a "Party," or collectively, as the "Parties."

#### **RECITALS**

- A. WHEREAS, Developer proposes to develop a childcare center which will provide a minimum of fifty (50) licensed preschool spaces, and space for community programming such as youth programs, after school programs and other community related services ("Family Development Center") to be developed on a site owned by CDC commonly known as 7515 Pacific Avenue, Walnut Park, CA 90255 ("Site") legally described in Exhibit C to this Agreement (collectively, the "Project"). This Project will serve the unincorporated areas of First District, specifically Walnut Park Community. The Project is described in Scope of Work, Exhibit A, and is estimated to cost the amount set forth in the Project Budget, Exhibit B to this Agreement.
- B. WHEREAS, Developer may, but shall not be required to, obtain other sources of financing for the Project which may include, but not be limited to:
- County of Los Angeles Capital Project Funds
  - YWCA Capital Campaign Funds (Private)
- C. WHEREAS, the Quitclaim Deed (as hereinafter defined) shall contain a right of reverter to ensure Project is completed in accordance with the Contract Terms of this Agreement.
- D. WHEREAS the Site is zoned for the operation of a Family Development Center providing services to a minimum of fifty (50) licensed preschool spaces.
- E. WHEREAS, CDC has agreed to sell the Site to Developer for \$1.00 subject to the Contract Terms and conditions set forth in this Agreement.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY AGREED, AND THE MUTUAL PROMISES AND COVENANTS OF THE PARTIES SET FORTH IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

## 1. PURPOSE OF TRANSFER

The purpose of the conveyance of the Site from CDC to Developer shall be for Developer to rehabilitate an existing building, and later own and operate the Project.

This Project is more specifically described in Scope of Work, attached hereto as Exhibit A, and is estimated to cost the amount set forth in the Project Budget, attached hereto as Exhibit B. CDC will provide to Developer County of Los Angeles Capital Project Funds up to the amounts specified in the Project Budget, to develop this Project. This amount includes initial predevelopment phase funding and subsequent rehabilitation-construction and permanent phase funding. Except costs and fees for CDC Acquisition/Holding shown on the Project Budget, each of the phases of funding is subject to approval by the Board of Commissioners of CDC. The Project will be developed on the Site, which is legally described in the attached Exhibit C to this Agreement.

The disposition and development of the Site pursuant to this Agreement and the fulfillment generally of this Agreement are in the vital and best interests of the CDC, the County of Los Angeles ("County"), and the health, safety, morals, and welfare of the County's residents, and are in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements.

Developer acknowledges that in the event the operation of a Family Development Center becomes infeasible as determined by Developer in its reasonable discretion, the Developer may use the Site for another public purpose as approved by CDC and in consultation with County.

Developer acknowledges that upon CDC's receipt of the Los Angeles County Capital Funds, CMD will retain a minimum fee of \$580,000 for limited predevelopment, construction observation and labor compliance services.

## 2. COVENANTS OF DEVELOPER

As additional consideration for transferring ownership of the Site to Developer, Developer covenants as follows:

- 2.1.1 Compliance with Laws. Developer shall comply with all Applicable Governmental Restrictions. As used herein, "**Applicable Governmental Restrictions**" shall mean and include any and all laws, statutes, ordinances, codes, rules, regulations, directives, writs, injunctions, orders, decrees, rulings, conditions of approval, or authorizations, now in force or which may hereafter, be in force, of any governmental entity, agency or political subdivision as they pertain to the performance of this Agreement or development or operation of the Project, including specifically but without limitation all code and other requirements of the jurisdiction in which the Project is located; the California Environmental Quality Act

(CEQA); and any federal, state, and local laws. Developer shall indemnify, defend, and hold harmless the CDC, the Housing Authority for the County of Los Angeles (“Housing Authority”), the County and each of their elected and appointed officers, officials, representatives, employees, and agents (hereinafter collectively referred to as “Public Agencies and their Agents”) from and against any and all liability, demands, damages, claims, causes of action, costs, fees (including reasonable attorney’s fees and costs and expert witness’ fees), and expenses, including, but not limited to, claims for bodily injury, property damage, and death (hereinafter collectively referred to as “Claims”), arising out of Developer’s failure to comply with Applicable Governmental Restrictions including, without limitation, the nonpayment of prevailing wages required to be paid in connection with the Project. Developer is solely responsible for determining the applicable laws, and shall not rely on statements made by CDC. Developer acknowledges that CDC has not represented that the Project is not a “public work” as defined in Labor Code Section 1720 et seq.; and Developer shall notify CDC and Developer’s contractors and subcontractors immediately upon learning of any investigation or determination by the California Department of Industrial Relations as to whether or not the Project is a “public work.”

2.1.2 Disclosures. Developer shall make available for inspection and audit to CDC’s representatives, upon seventy-two (72) hours prior written request, from time to time during the period beginning with the execution of this Agreement until five (5) years after the date of licensing by Community Care Licensing Division (“Reporting Period”), at Developer’s offices, or at such other location within the County as Developer may reasonably determine, all of the books and records relating to the operation of the Project and this Agreement. All such books and records shall be maintained by Developer for the Reporting Period; provided that in the event of any litigation, claim or audit is started before the expiration of this period, said books and records shall be retained until all litigation, claims, or audit findings involving said books and records shall have been resolved.

2.1.3 Other Reports. Upon seventy-two (72) hours’ written notice during the Reporting Period, Developer shall prepare and submit to CDC, any financial, program progress, monitoring, evaluation or other reports (including, but not limited to, documents related to construction and Project financing, and project operations) reasonably required by CDC or its representatives as they relate to the Project or this Agreement; provided, however, if such requested reports are not capable of being prepared and submitted to CDC within such seventy-two (72) hour period, then within a reasonable time thereafter. Developer shall ensure that its employees, agents, officers, and board members furnish such information,

which in the reasonable judgment of CDC representatives or employees, may be relevant to a question of compliance with this Agreement. Developer shall retain all existing records and data relating to this Project until expiration of this period. In the event any litigation, claims or audit is started during this period, said books and records shall be retained until all litigation, claims or audit findings involving said books and records have been resolved.

- 2.1.4 Indemnification. Except as otherwise set forth below in this Section 2.1.4, Developer agrees to indemnify, defend, and hold harmless the Public Agencies and their Agents from and against any and all Claims that arise out of, pertain to, or relate to the Agreement, Site, Project or the work or services that are the subject of this Agreement. Developer shall not be required to indemnify Public Agencies from any Claims that arise from Public Agencies' sole negligence or willful misconduct.

In the event that Developer provides construction services in relation to the construction of the Project, with respect to those construction services, Developer agrees to indemnify, defend, and hold harmless Public Agencies and their Agents from and against any and all Claims that arise out of, pertain to, or relate to the work or services that are the subject of this Agreement. Developer shall not be required to indemnify, defend, and hold harmless Public Agencies from any Claims that arise from the active negligence, sole negligence or willful misconduct of Public Agencies, Public Agencies' agents, servants, or independent contractors who are directly responsible to Public Agencies.

In the event that Developer contracts with another entity (hereinafter "Construction Entity") for construction services to be provided in relation to the construction of the Project (hereinafter "Developer-Construction Entity Contract"), Developer agrees that language at least equivalent to the following shall be incorporated in its contract with Construction Entity in favor of Public Agencies: Construction Entity agrees to indemnify, defend, and hold harmless Public Agencies from and against any and all Claims that arise out of, pertain to, or relate to the Project, Site, work or services that are the subject of this Agreement, or the construction services of Construction Entity, its employees, representatives, consultants, subcontractors, agents, or any other entity for which Construction Entity is responsible. Construction Entity shall not be required to indemnify and hold harmless Public Agencies from any Claims that arise from the active negligence, sole negligence or willful misconduct of Public Agencies, Public Agencies' agents, servants, or independent contractors who are directly responsible to Public Agencies. This indemnification clause shall remain in full force and effect following the expiration of the term of the Developer-Construction Entity Contract.

In the event that Developer provides design professional services in relation to the Project, Developer agrees to indemnify, defend, and hold harmless Public Agencies from and against any and all Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Developer.

In the event that Developer contracts with another entity (hereinafter "Design Professional Entity") for design professional services to be provided in relation to the Project (hereinafter "Developer-Design Professional Contract"), Developer agrees that language at least equivalent to the following shall be incorporated in the Developer-Design Professional Contract in favor of Public Agencies: Design Professional Entity agrees to indemnify, defend, and hold harmless Public Agencies from and against any and all Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Design Professional Entity, its employees, representatives, consultants, subcontractors, agents, or any other entity for which Developer is responsible. This indemnification clause shall remain in full force and effect following the expiration of the term of the Developer-Design Professional Contract.

In the event that Developer enters into a Operations Contract (as defined in section 3.4 of this Agreement) with Operations Entity (as defined in section 3.4 of this Agreement), Developer agrees that language at least equivalent to the following shall be incorporated in the Operations Contract in favor of Public Agencies: Operations Entity agrees to indemnify, defend, and hold harmless the Public Agencies and their Agents from and against any and all Claims that arise out of, pertain to, or relate to the acts, errors, or omissions of Operations Entity, except to the extent that such Claims are caused by the Public Agencies' sole negligence or willful misconduct.

In the event that Developer provides any services pertaining or relating to minors in relation to the Project, Developer agrees to indemnify, defend, and hold harmless Public Agencies from and against any and all Claims that arise out of, pertain to, or relate to Developer's acts or omissions, whether civil or criminal, intentional or unintentional, including, without limitation, allegations or acts of physical abuse, mental abuse, psychological abuse, sexual abuse, molestation, maltreatment, or mistreatment, with respect to, relating to, pertaining to, or arising out of the Project contemplated herein, Site, the uses of the Site, or services or work to be provided as contemplated under this Agreement, except to the extent that such Claims are caused by the sole negligence or willful misconduct of Public Agencies.

In the event that Developer enters into an agreement with another entity (hereinafter "Youth Services Entity") for services pertaining or relating to minors in relation to the Project (hereinafter "Developer-Youth Services Entity Contract"), Developer shall incorporate in its agreement with Youth Services Entity language at least equivalent to the following: Youth Services Entity agrees to indemnify, defend, and hold harmless the Public Agencies from and against any and all Claims relating to the Youth Services Entity's acts or omissions, whether civil or criminal, intentional or unintentional, including, without limitation, allegations or acts of physical abuse, mental abuse, psychological abuse, sexual abuse, molestation, maltreatment, or mistreatment, with respect to, relating to, pertaining to, or arising out of the Project contemplated herein, Site, the uses of the Site, or services to be provided as contemplated under this Agreement, except to the extent that such Claims are caused by the sole negligence or willful misconduct of Public Agencies.

All of the above mentioned duties to indemnify shall remain in full force and effect and survive the cancellation, termination and/or expiration of this Agreement and any other agreements that relate to or pertain to the indemnification provisions. Developer agrees to require any entities with which it contracts to agree to and abide by the above mentioned duties to indemnify, with language at least equivalent as stated herein, in favor of the Public Agencies, as applicable to each of them.

Developer further acknowledges that Developer and/or Youth Services Entity may be working with and may come into close contact with minors. Developer represents and warrants that it shall ensure that it enters into agreements with Youth Services Entities that have conducted extensive background checks on all of Youth Services Entity's consultants, employees, and volunteers. Developer represents and warrants that it will not enter into any agreement with Youth Services Entity if Youth Services Entity or its consultants, employees, or volunteers have any criminal or civil backgrounds that should prevent them from working with minors. Developer acknowledges and agrees that in contemplation of all of the services to be provided in relation to this Project and the intended purposes of the Project, the situations may arise in which Youth Services Entity or its consultants, employees, or volunteers find themselves alone in a room with a minor to discuss the services. Developer represents and warrants that it will require that Youth Services Entity and its consultants, employees, and volunteers do not provide any such services in closed door meetings and all doors to the rooms in which the services are rendered shall remain open at all times. Developer represents and warrants that it shall ensure that Youth Services Entity has a written policy and procedure in place regarding working with minors and all of Youth Services Entity's consultants, employees, and volunteers have received

formal training on such. Developer acknowledges and agrees that a material inducement to CDC in entering into this Agreement is that Developer and/or Youth Services Entity has such policies and procedures in place, has received and provided to its staff and consultants formal training on such, takes these issues seriously, and acts immediately and appropriately to address any issues or concerns regarding such. At anytime upon CDC's forty eight (48) hour notice, Developer shall provide copies of all of Youth Services Entity's policies, procedures, non confidential background check materials, and other relevant information upon which Developer's above representations are based. If Developer fails to provide information, documents, and materials to support its representations herein, then CDC, in its sole discretion, may elect to terminate this Agreement and may assert any and all remedies and rights available to CDC under this Agreement.

- 2.1.5 Audit by State and Federal Agencies. In the event this Agreement or Site transfer is subject to audit, monitoring or other inspections by appropriate state and federal agencies, Developer shall comply with such inspections and pay on behalf of itself and CDC the full amount of the cost to the inspecting agency which result from such inspections, if any, unless such inspection and any resulting liability arises solely from the gross negligence or willful misconduct of CDC or its Agents.
- 2.1.6 Program Evaluation and Review. Developer shall allow CDC authorized personnel to inspect, observe, and monitor its Project facilities and Program operations as they relate to the Project or this Agreement, including interviewing of Developer's staff, tenants, Project operator, program participants, as reasonably requested by CDC during the Term; provided, however that CDC will provide Developer with forty-eight (48) hours prior written notice of exercise of its rights pursuant hereto. Inspection by CDC of the Project or the Site shall not be construed as an acknowledgment, acceptance or representation by CDC or the County that there has been compliance with any Contract Terms or provisions of this Agreement, nor that the services provided by Developer and its employees, agents, and consultants are in compliance with any Applicable Governmental Restrictions or other applicable standards.
- 2.1.7 Hazardous Materials. Developer covenants that it shall not deposit or permit the deposit of Hazardous Materials (as defined below) in, on or upon the Site or the Project. Developer further covenants to remove or remediate, at its expense (subject to any reimbursement it may be able to obtain from third parties) any Hazardous Materials located in, on or upon the Site or the Project as of the date hereof or which are deposited in, on or upon the Site or the Project from and after the date hereof and during the Developer's ownership of the Site or the Project, including any

asbestos, lead-based paint and any other Hazardous Materials located in the Project to the extent required by and in accordance with the requirements of all applicable governmental restrictions, including, without limitation, all applicable laws. The foregoing shall not be construed or understood to prohibit Developer from allowing Hazardous Materials to be brought upon the Project so long as they are materials which are customary to the normal course of business in the operation of a well-designed childcare facility and so long as such materials are used, stored and disposed of in accordance with all applicable governmental restrictions. Except with respect to any claims caused by CDC or its Agents' sole negligence or willful misconduct, Developer shall indemnify, defend and hold Public Agencies and their Agents harmless from and against any and all Claims arising directly or indirectly out of the presence of Hazardous Materials in, on or upon the Site or the Project, existing as of the date hereof or deposited (or claimed to have been deposited) in, on or upon the Site or the Project from and after the date hereof and during Developer's ownership of the Site or the Project, including without limitation any claims arising out of any deposits of Hazardous Materials described in hereinabove or out of Developer's failure to remove or remediate all such Hazardous Materials in, on or upon the Site and the Project, as required above. Except with respect to any claims caused by CDC's sole negligence or willful misconduct, Developer hereby releases and forever discharges Public Agencies and their Agents, from any and all present and future Claims arising out of or in any way connected with Developer's ownership of the Site, operation of the Project, or any condition of environmental contamination in, on, under, upon or around the Site, or the existence of Hazardous Materials in any state in, on, under, upon or around the Site. In connection with such release and waiver, Developer is familiar with, and has been advised by its counsel, and hereby waives any and all rights and benefits that Developer may have under the provisions of Section 1542 of the California Civil Code which provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT BY THE DEBTOR."

For the purposes of this Agreement, the term "**Hazardous Materials**" means, without limitation, gasoline, petroleum products, explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, polychlorinated biphenyls or related or similar materials, asbestos or any other substance or material as may now or hereafter be defined as a hazardous or toxic substance by any federal, state or local environmental law, ordinance, rule or regulation, including,

without limitation, (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act (42 U.S.C. Section 9601 et seq.), (ii) the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), (iii) the Clean Air Act (42 U.S.C. Section 7401 et seq.), (iv) the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. Section 6902 et seq.), (v) the Toxic Substances Control Act (15 U.S.C. Section 2601-2629), (vi) the Hazardous Materials Transportation Act (49 U.S.C. Section 5101 et seq.), (vii) the Carpenter-Presley-Tanner Hazardous Substance Account Act (CA Health & Safety Code Section 25300 et seq.), (viii) the Hazardous Waste Control Law (CA Health & Safety Code Section 25100, et seq.), (ix) the Porter-Cologne Water Quality Control Act (CA Water Code Section 13000 et seq.), (x) the Safe Drinking Water and Toxic Enforcement Act of 1986, (xi) the Hazardous Materials Release Response Plans and Inventory (CA Health & Safety Code Section 25500 et seq.), (xii) the Air Resources Law (CA Health & Safety Code Section 39000 et seq.), or (xiii) in any of the regulations adopted and publications promulgated pursuant to the foregoing.

In the event that significant archaeological resources are exposed during Project construction, all earth disturbing work within the Site must be temporarily suspended or redirected until a professional archaeologist has evaluated the nature and significance of the find.

#### 2.1.8 Insurance.

Without limiting Developer's duties to indemnify and defend the Public Agencies and their Agents as provided in this Agreement, Developer shall procure and maintain, at Developer's sole expense, for the duration of this Agreement or as otherwise set forth herein, the insurance policies described herein. Such insurance shall be secured from carriers admitted in California, or authorized to do business in California. Such carriers shall be in good standing with the California Secretary of State's Office and the California Department of Insurance. Such carriers must be approved by the California Department of Insurance and must be included on the California Department of Insurance List of Eligible Surplus Line Insurers (hereinafter "LESLI"). Such carriers must have a minimum rating of or equivalent to A:VIII in Best's Insurance Guide. Developer shall, concurrent with the execution of this Agreement, deliver to the CDC certificates of insurance with original endorsements evidencing the insurance coverage required by this Agreement. If original endorsements are not immediately available, such endorsements may be delivered subsequent to the execution of this Agreement, but no later than thirty (30) days following execution of this Agreement. The certificates and

endorsements shall be signed by a person authorized by the insurers to bind coverage on its behalf. The CDC reserves the right to require complete certified copies of all policies at any time. Said insurance shall be in a form acceptable to the CDC and may provide for such deductibles as may be acceptable to the CDC. Any self-insurance program and self-insured retention must be separately approved by the CDC, which approval shall not be unreasonably withheld, conditioned or delayed. In the event such insurance does provide for deductibles or self-insurance, Developer agrees that it will defend, indemnify and hold harmless the CDC, its elected and appointed officers, officials, representatives, employees, and agents in the same manner as they would have been defended, indemnified and held harmless if full coverage under any applicable policy had been in effect. Each such certificate shall stipulate that the CDC be given at least thirty (30) days' written notice in advance of any cancellation or any reduction in limit(s) for any policy of insurance required herein. Developer shall give the CDC immediate notice of any insurance claim or loss which may be covered by insurance. Developer represents and warrants that the insurance coverage required herein will also be provided by any entities with which Developer contracts, as detailed below. All certificates of insurance and additional insured endorsements shall carry the following identifier: YWCA - Pacific Boulevard Family Development Center, 7515 Pacific Boulevard, Walnut Park, CA 90255.

The insurance policies set forth herein shall be primary insurance with respect to the CDC. The insurance policies shall contain a waiver of subrogation for the benefit of the CDC. Failure on the part of Developer, and/or any entities with which Developer contracts, to procure or maintain the insurance coverage required herein may, upon the CDC's sole discretion, constitute a material breach of this Agreement pursuant to which the CDC may immediately terminate this Agreement and exercise all other rights and remedies set forth herein, at its sole and absolute discretion, and without waiving such default or limiting the rights or remedies of the CDC, procure or renew such insurance and pay any and all premiums in connection therewith and all monies so paid by the CDC shall be immediately repaid by the Developer to the CDC upon demand including interest thereon at the default rate. In the event of such a breach, the CDC shall have the right, at its sole election, to participate in and control any insurance claim, adjustment, or dispute with the insurance carrier. Developer's failure to assert or delay in asserting any claim shall not diminish or impair the CDC's rights against the Developer or the insurance carrier.

When Developer is naming the CDC as an additional insured on any of the insurance policies set forth herein, then the additional insured endorsement shall contain language similar to the language contained in ISO form CG 20

10 10 01. When any entity with which Developer is contracting, is naming the CDC as an additional insured on any of the insurance policies set forth herein, then the additional insured endorsement shall contain language similar to the language contained in ISO form CG 20 10 11 85.

The following insurance policies shall be maintained by Developer and any entity with which Developer contracts for the duration of this Agreement unless otherwise set forth herein:

A. GENERAL LIABILITY INSURANCE (written on ISO policy form CG 20 10 85 or it's equivalent) including coverage for personal injury, death, property damage and contractual liability with limits of not less than the following:

General Aggregate	\$4,000,000
Products/ Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$2,000,000
Each Occurrence	\$2,000,000

This policy shall also include coverage for explosion, collapse, and underground ("XCU") property damage liability. The CDC, the Housing Authority for the County of Los Angeles ("Housing Authority"), the County of Los Angeles ("County") (CDC, Housing Authority and County are hereinafter collectively referred to as "Public Agencies"), and each of their elected and appointed officers, officials, representatives, employees, and agents (hereinafter collectively referred to as "Agents") shall be covered as additional insureds on such policy.

B. WORKERS' COMPENSATION and EMPLOYER'S LIABILITY insurance providing workers' compensation benefits, as required by the Labor Code of the State of California. In all cases, the above insurance shall include Employer's Liability coverage with limits of not less than the following:

Each Accident	\$1,000,000
Disease-Policy Limit	\$1,000,000
Disease-Each Employee	\$1,000,000

C. AUTOMOBILE LIABILITY INSURANCE (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than one million dollars (\$1,000,000) for each incident. Such insurance shall include coverage of all "owned", "hired", and "non-owned" vehicles, or coverage for "any auto." The Public Agencies and their Agents shall be covered as additional insureds on such policy.

D. PROFESSIONAL LIABILITY INSURANCE, including coverage for personal injury, death, property damage, and contractual liability in an amount not less than One Million Dollars (\$1,000,000). Said insurance shall

be maintained for the statutory period during which the professional maybe exposed to liability.

E. POLLUTION LIABILITY INSURANCE including coverage for bodily injury, property damages, and environmental damage with limits of not less than the following:

General Aggregate	\$ 2,000,000
Completed Operations	\$ 1,000,000
Each Occurrence	\$ 1,000,000

Said policy shall also include, but not be limited to: coverage for any and all remediation costs, including, but not limited to, restoration costs, and coverage for the removal, repair, handling, and disposal of asbestos and/or lead containing materials. The Public Agencies and their Agents shall be covered as additional insureds on the pollution liability insurance policy. If the general liability insurance policy and/or the pollution liability insurance policy is written on a claims-made form, then said policy or policies shall also comply with all of the following requirements:

(i) The retroactive date must be shown on the policy and must be before the date of this Agreement or the beginning of the work or services that are the subject of this Agreement;

(ii) Insurance must be maintained and evidence of insurance must be provided for the duration of this Agreement or for five (5) years after completion of the work or services that are the subject of this Agreement, whichever is greater;

(iii) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Agreement, then the Developer must purchase an extended period coverage for a minimum of five (5) years after completion of work or services that are the subject of this Agreement;

(iv) A copy of the claims reporting requirements must be submitted to the CDC for review; and

(v) If the work or services that are the subject of this Agreement involve lead based paint or asbestos identification/remediation, then the Contractors Pollution Liability shall not contain any lead-based paint or asbestos exclusions.

F. PROPERTY INSURANCE: "All Risk" ISO Special Form property insurance. Coverage shall include protection for earthquake and flood if this protection is available from responsible carriers at reasonable cost. CDC shall be the loss payee under the aforementioned policy(ies) under a

standard lender's loss payable endorsement. The amount of the property coverage shall at all times exceed the full replacement value of all improvements and fixtures on the Site and the insurer shall waive any coinsurance via an "agreement" endorsement.

Developer agrees that it will require that all of the above mentioned insurance requirements be incorporated in its contract with any entity with which it contracts in relation to this Agreement, Site, Project or the work or services that are the subject of this Agreement.

2.1.9 Other Agreement or Loans. Developer shall comply with all monetary and nonmonetary covenants associated with any agreement or loan secured by an interest in the Site or the Project and of which Developer has knowledge, including but not limited to the senior financing, the junior financing and the other financing. Developer shall provide to CDC a copy of any notice of default within five (5) business days after receiving any notice of a default or alleged default of such covenants by Developer, and Developer shall promptly cure any such default and cooperate in permitting CDC, to the extent CDC in its sole discretion elects to do so, to cure or assist in curing the default.

2.1.10 Environmental Conditions. Developer shall comply with any CEQA mitigation measures outlined in Exhibit E or other environmental conditions reasonably imposed by CDC or any other applicable governmental authority in connection with the Project.

2.1.11 Taxes, Assessments, Encumbrances, and Liens. Developer shall pay all real estate taxes and assessments assessed and levied on the Site or any portion thereof for any period subsequent to the Close of Escrow (excluding any period after title reverts to CDC following exercise of the CDC's right of reversion under this Agreement). Prior to the Notice of Completion being recorded, the Developer shall not place or allow to be placed on the Site, and if such has been placed Developer shall immediately cause to be removed at its own expense, any mortgage, trust deed, encumbrance, or lien not authorized by this Agreement. Nothing herein contained shall be deemed to prohibit the Developer from contesting the validity or amounts of any tax, assessment, encumbrance, or lien. Developer understands that under certain conditions, its control of the Site or portion thereof under this Agreement may give rise to the imposition of a possessory interest tax on said Site, and in such event, Developer agrees to pay said tax when due.

### **3. USE OF PROPERTY**

3.1 Limitations on Program Participants. Notwithstanding anything to the contrary in this Agreement, Developer hereby covenants on behalf of itself, and its

successors and assigns, which covenants shall run with the land and bind every successor and assign in interest of Developer in perpetuity as described herein, Developer and such successors and assigns shall use the Site solely for the purpose of operating the Project as a Family Development Center, which includes a childcare center with an agreed minimum of fifty (50) licensed preschool spaces.

### 3.2 AFFIRMATIVE MARKETING REQUIREMENTS

In accordance with the California Fair Employment and Housing Act, Developer must adhere to the following affirmative marketing guidelines in order to create awareness for the general public and certain community groups as to the availability of resources of this facility.

3.2.1 APPLICABILITY Developer is required to develop and provide to CDC for approval, which approval shall not be unreasonably withheld, conditioned or delayed, an affirmative marketing plan (“Affirmative Marketing Plan”).

3.2.2 THE AFFIRMATIVE MARKETING PLAN. The Developer’s Affirmative Marketing Plan shall consist of a written marketing strategy designed to provide information and to attract eligible persons in the market area to the available childcare services without regard to race, color, national origin, sex, religion, marital and familial status, disability, medical condition, sexual orientation, or ancestry. It shall describe initial advertising, outreach (community contacts) and other marketing activities, which will inform potential clients of the availability of the services. It shall also outline an outreach program which includes special measures designed to attract those groups identified as least likely to apply, and other efforts designed to attract persons from the total eligible population.

#### **A. Outreach Steps Required:**

1. The Affirmative Marketing Plan shall outline:
  - a. Commercial Media to be used (i.e., community newspapers and non-English language newspapers, radio, television, billboards, religious or local real estate publications, etc.).
  - b. Marketing efforts to be used (i.e., brochures, letters, handouts, direct mail, signs, etc.)
  - c. Community contacts to supplement formal communications media for the purpose of soliciting group(s) least likely to apply for the available services. They should be individuals or organizations that have direct and frequent contact with those identified as least likely to apply (i.e., service agencies,

community organizations, places of worship, etc.) that have direct and frequent contact with those identified as least likely to apply. The contacts should also be chosen on the basis of their positions of influence within the general community and the particular target group. The Developer must agree to establish and maintain contact with the identified contacts.

- d. Specify means to assure that information regarding the availability of services reaches eligible individuals with disabilities and will be disseminated to increase effectiveness of outreach and communications (e.g., Telecommunications Devices for the Deaf (TTY), materials on tape or in Braille, accessible locations for activities and meetings, etc.)
- e. State that access to all offices for the Project will be accessible to persons with disabilities as required by the Americans with Disabilities Act.

**B. WAITING LIST SELECTION** The Developer shall also provide for the selection of program participants from a written waiting list in the chronological order of their application, insofar as is practicable, and provide prompt written notification to any rejected applicants and provide the grounds for any rejection.

### 3.3 [Intentionally Left Blank]

3.4 Management of Project. Subject to the Contract Terms and conditions contained herein below, Developer shall at all times following the commencement of Project operations pursuant to this Agreement either utilize its own staff and/or retain an entity to perform the operations or management and/or supervisory functions ("**Manager**") with respect to the operation of the Project including day-to-day administration, maintenance and repair. If an outside entity is utilized for the operation of the child care center, Developer shall, before execution or any subsequent amendment or replacement thereof, submit and obtain CDC's reasonable written approval, which shall not be unreasonably withheld, conditioned or delayed, of an operations contract ("**Operations Contract**") entered into between Developer and an entity ("**Operations Entity**") reasonably acceptable to CDC. Subject to any regulatory or licensing requirements of any other applicable governmental agency, the Operations Contract may be for a contract term of up to fifteen (15) years and may be renewed for successive contract terms in accordance with its terms, but may not be amended or modified without the written consent of CDC, which consent shall not be unreasonably withheld, conditioned or delayed. The Operations Contract shall also provide that the Operations Entity shall be subject to termination for failure to meet Project maintenance and operational standards set forth herein or in other

agreements between Developer and CDC. Developer shall promptly terminate any Operations Entity which commits or allows such failure, unless the failure is cured within a reasonable period in no event exceeding sixty (60) days from Operation Entity's receipt of notice of the failure from Developer or CDC. Developer's obligation to retain an Operations Entity shall remain in force and effect for the same duration as the use covenants set forth in Section 4.1. The Operations Contract shall also require that the Public Agencies and their Agents be named as an additional insured on Operations Entity's insurance policies.

**3.5 Operations and Maintenance.** Developer hereby covenants on behalf of itself, and its successors and assigns, which covenant shall run with the land and bind every successor and assign in interest of Developer, that Developer and such successors and assigns shall use the Site solely for the purpose of operating the Project and related ancillary improvements thereon, in accordance with and of the quality prescribed by this Agreement, Maintenance Standards (Exhibit F), except as provided in Section 1 herein.

Developer covenants and agrees for itself, its successors and assigns, which covenants shall run with the land and bind every successor or assign in interest of Developer, that during development of the Site pursuant to this Agreement and thereafter, neither the Site nor the Project, nor any portion thereof, shall be improved, used or occupied in violation of any Applicable Governmental Restrictions or the restrictions contained in this Agreement. Furthermore, Developer and its successors and assigns shall not maintain, commit, or permit the maintenance or commission on the Site or in the Project, or any portion thereof, of any nuisance, public or private, as now or hereafter defined by any statutory or decisional law applicable to the Site or the Project, or any portion thereof.

Developer shall, at its sole expense, (i) maintain all improvements and landscaping on the Site in good working order, condition, and repair (and, as to landscaping, in a healthy and thriving condition) in accordance with the Plans for the Project (which must be approved by CDC before being incorporated into the Construction Contract, which approval shall not be unreasonably withheld, conditioned or delayed) (such approved plans, the "Plans") and all Applicable Governmental Restrictions, and (ii) manage the Project and Project finances reasonably prudently and in compliance with Applicable Governmental Restrictions so as to maintain a safe and attractive environment for the Project.

#### **4. TRANSFER OF TITLE**

4.1 Delivery of the executed quitclaim deed, in the form attached hereto as Exhibit D ("Quitclaim Deed") to be recorded shall be carried out through an escrow account ("**Escrow**") to be established by the Parties with a title or escrow company specifically approved in writing for this transaction by CDC ("**Escrow Holder**").

Developer shall obtain CDC's approval of an Escrow Holder and open Escrow after the conditions below under Section 4.2 have been met. The Parties may execute supplemental instructions to Escrow Holder consistent with the Contract Terms of this Agreement, but in the event of a conflict between the Contract Terms of this Agreement and any supplemental escrow instructions, the Contract Terms of this Agreement shall control. Except as otherwise expressly provided herein, any fees and costs incurred by Escrow Holder in the performance of its duties hereunder and agreed to be paid by Parties shall be paid solely by Developer.

4.2 The obligation of CDC to transfer title under this Agreement shall be expressly subject to satisfaction of the following conditions (collectively, the "**Closing Conditions**"): met:

4.2.1 Developer shall deposit \$1.00 in Escrow.

4.2.2 United Title Company, First American Title, North American Title, Chicago Title, Stewart Title, or another title insurer approved by the CDC ("**Title Company**") shall be committed to issuing to the CDC a title insurance policy, which is reasonably acceptable to the CDC, insuring CDC's interest in the Site and including customary endorsements. Standard lender's title insurance coverage (without the need for a survey) will be accepted by the CDC if applicable unless a Project lender requires extended coverage, in which case an ALTA extended coverage policy will also be provided to CDC.

4.2.3 Receipt by CDC of a copy of the certification by Community Care Licensing Division of the State of California evidencing that the project may operate as a fully licensed child care center.

4.2.4 Receipt by CDC of the Certificate of Occupancy (a Temporary Certificate of Occupancy is not acceptable for this purpose) for the Project and a recorded Notice of Completion.

4.2.5 Receipt by CDC of letters with signatures from authorized persons from all lenders with a recorded security interest in the Property, if any, confirming their acceptance of the Project as completed.

4.2.6 Receipt by CDC of written correspondence from the Developer and Project Architect that certifies that the Project was constructed according to plans and specifications consistent with Exhibit A of this Agreement or as later amended by the Parties.

4.2.7 Receipt by CDC of a cost certification completed by a third-party Certified Public Accountant selected by the YWCA showing all sources and uses

for Project (format should be similar to cost certifications accepted by the California Tax Credit Allocation Committee).

- 4.2.8 Receipt by CDC of a certification by the Developer and the child care service provider that the childcare center is at least operating at 85% of its licensing capacity maximum for two (2) full months. In addition, the Developer shall establish a waitlist of at least 20 qualified preschoolers who may be available to fill existing or future vacancies and a copy of such waitlist shall be provided to CDC; or in lieu of the above waiting list established by the YWCA, the YWCA may utilize the Los Angeles Centralized Eligibility List (LACEL) to meet the requirements described above in this Section 4.2.6. The LACEL is a countywide list of families seeking assistance in paying for child care and development services and meeting the eligibility requirements for child care and development subsidies established by the California Department of Education (CDE). A copy of this LACEL shall be provided to CDC.
- 4.2.9 Receipt by CDC of a detailed business plan for operating and maintaining the Project, including the provision of child care services, building/grounds maintenance, program services, and any other services needed or to be provided. Include back up plans if existing child care services need to be replaced by another service provider.
- 4.2.10 Receipt by CDC of any and all related copies of contract(s) that will provide for services at the Project, including but not limited to, the provision of child care services, building maintenance, landscape maintenance, and management of programs and/or services, etc.
- 4.2.11 Receipt by CDC of a two year pro forma operating statement showing cash flow, including all anticipated income and expenses, itemized in sufficient detail that confirms viability and feasibility of the Project.
- 4.2.12 Receipt by CDC of funding commitments for operating income which may include grants, contracts for funding, and/or a statement from the Developer certifying anticipated income generated from paying clients (provide underlying assumptions and details).
- 4.2.13 Receipt by CDC of satisfactory proof of insurance as outlined in Section 3.1.8 of this Agreement.
- 4.2.14 Receipt by Escrow of all funds needed from YWCA to pay for all transaction costs, including but not limited to escrow fees, title reports, recording fees, notary fees, and any other related cost to cause the land to transfer to the Developer's ownership. Any funds not expended for the above items will be refunded to the Developer by Escrow.

- 4.3 When, and only when, Escrow Holder has confirmed that Closing Conditions in 4.2 above have been satisfied, and has received written certification from CDC's Executive Director, or his designee, that all other Closing Conditions have been timely satisfied or waived, then Escrow Holder shall carry out the close of Escrow ("**Close of Escrow**") by:
- 4.3.1 Causing the Quitclaim Deed, transferring title from CDC to Developer, to be recorded in the Official Records of Los Angeles County, California; and
  - 4.3.2 Promptly following recordation, delivering conformed copies of the recorded documents to CDC and Developer.
- 4.4 Time is of the essence with respect to the rights and obligations of the Parties under this Agreement and if the Close of Escrow does not occur prior to the Closing Deadline, then Escrow shall terminate, and Escrow Holder shall promptly return all funds and documents to the Party depositing them, unless the closing date is extended by mutual written agreement of the Parties prior to the Closing Deadline. Notwithstanding the foregoing, if, despite Developer's commercially reasonable efforts, the Close of Escrow does not occur before the Closing Deadline as a result of a failure of the condition described in Section 4.2.8, then, provided that Developer continues to use commercially reasonable efforts to satisfy such condition, Developer shall have the right, to extend the Closing Deadline until a date mutually agreed upon by the Parties.
- 4.5 Developer agrees that it shall have had adequate access to the Site and shall have had the opportunity to conduct any and all inspections to the Site to its full and complete satisfaction, and if Developer acquires the Site from CDC, Developer acknowledges that it will be purchasing the Site with knowledge of any and all conditions of the Site. Developer acknowledges that it is capable of evaluating the Site's suitability for Developer's intended use. Developer agrees that: (i) Developer shall be solely responsible for determining the status and condition of the Site (including the environmental condition of the Site); and (ii) Developer is relying solely upon such inspections, examinations, third party reports provided to Developer and evaluation of Site by Developer.
- 4.6 The Site is being sold and conveyed hereunder and Developer agrees to accept the Site "AS-IS," "WHERE IS" and "WITH ALL FAULTS" and subject to any condition which may exist, without any representation or warranty by CDC. CDC makes no representations or warranties, express or implied, as to the Site, or the transaction contemplated by this Agreement. No person acting on behalf of Developer is authorized to make (and by the execution hereof, Developer hereby agrees that no person has made) any representation, agreement, statement, warranty, guaranty, or promise regarding the Site and no representation, warranty, agreement, statement, guaranty or promise, if any, made by and any person acting on behalf of CDC shall be valid or binding upon Developer.

Developer hereby waives and relinquishes all rights and privileges arising out of, or with respect or in relation to, representations, warranties or covenants, whether express or implied, which may have been made or given, or which may be deemed to have been made or given, by CDC. Developer hereby further acknowledges and agrees that warranties of merchantability and fitness for a particular purpose are excluded from the transaction contemplated hereby, as are any warranties arising from a course of dealing or usage of trade.

4.7 UPON THE CLOSING, DEVELOPER HEREBY AGREES TO ASSUME ALL RISKS AND LIABILITIES RELATED TO THE SITE (INCLUDING, BUT NOT LIMITED TO, AS RELATED TO THE PHYSICAL/ENVIRONMENTAL CONDITION OF THE SITE, THE EXISTENCE OF HAZARDOUS MATERIALS IN ANY STATE IN, ON, UNDER, UPON OR AROUND THE SITE, AND ITS VALUE, FITNESS, USE OR ZONING) WHETHER DIRECT OR INDIRECT, KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, WHICH IN ANY WAY AND AT ANY TIME RELATE TO OR ARISE FROM THE SITE (INCLUDING, BUT NOT LIMITED TO, AS RELATED TO THE PHYSICAL/ENVIRONMENTAL CONDITION OF THE SITE, AND ITS VALUE, FITNESS, USE OR ZONING), DEVELOPER HEREBY WAIVES AND RELEASES PUBLIC AGENCIES AND THEIR AGENTS, FROM ANY AND ALL CLAIMS, SUITS, JUDGMENTS, LIABILITIES, PENALTIES, FINES, COSTS, EXPENSES, DEMANDS, LOSSES OR DAMAGES (INCLUDING WITHOUT LIMITATION ATTORNEY FEES AND COSTS), WHETHER DIRECT OR INDIRECT, KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, WHICH IN ANY WAY AND AT ANY TIME RELATE TO OR ARISE FROM THE SITE (INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL/ENVIRONMENTAL CONDITION OF THE SITE, AND ITS VALUE, FITNESS, USE OR ZONING).

DEVELOPER ACKNOWLEDGES THAT IT IS FAMILIAR WITH, AND HAS BEEN ADVISED BY ITS COUNSEL, AND VOLUNTARILY AND EXPRESSLY WAIVES ANY AND ALL RIGHTS AND BENEFITS THAT DEVELOPER MAY HAVE UNDER SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA WHICH PROVIDES AS FOLLOWS:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR”

DEVELOPER WAIVES AND RELINQUISHES ANY RIGHT OR BENEFIT IT HAS OR MAY HAVE UNDER THIS CODE SECTION OR ANY SIMILAR PROVISION OF THE STATUTORY OR NON-STATUTORY LAW OF ANY JURISDICTION.

DEVELOPER'S INITIALS: \_\_\_\_\_

## **5. DEVELOPER'S OBLIGATION TO REFRAIN FROM DISCRIMINATION.**

There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, sex, marital status, disability, sexual orientation, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall Developer itself or any person claiming under or through Developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of program participants, or vendees of the Site or any portion thereof. The nondiscrimination and nonsegregation covenants set forth herein shall remain in effect in perpetuity.

## **6. FORM OF NONDISCRIMINATION AND NONSEGREGATION CLAUSES.**

Developer shall refrain from restricting the participation of persons in activities at the Site or any portion thereof on the basis of race, color, creed, religion, sex, marital status, disability, sexual orientation, national origin, or ancestry of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In leases: "The lessee herein covenants by and for himself or herself, and his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, disability, sexual orientation, national origin, or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the land herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupants, lessees, sublessees, subtenants, or vendees in the land herein leased.

(b) In contracts: "There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, disability, sexual orientation, national origin, or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the Parties to this contract or any person claiming under or through them, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, occupants, lessees, subtenants, sublessees, or vendees of the premises."

## **7. INDEPENDENT CONTRACTOR.**

In their performance of this Agreement, all Parties hereto will be acting in an independent capacity and not as agents, employees, partners, joint ventures, or associates of one another. The Parties agree that the relationship created by this

Agreement is that of an independent contractor. The employees or agents of one party shall not be deemed or construed to be the agents or employees of the other party for any purpose whatsoever, including workers' compensation liability. Developer shall bear the sole responsibility and liability for furnishing or causing the General Contractor to furnish workers' compensation benefits to any person for injuries arising from or connected with services performed on behalf of Developer pursuant to this Agreement.

## **8. ASSIGNMENT OF THIS AGREEMENT.**

This Agreement shall be assignable by Developer only if Developer obtains the prior express written consent of CDC, which consent may be withheld by CDC in its sole discretion. Notwithstanding anything to the contrary in this Agreement, no purported assignment of this Agreement shall be effective if such assignment would violate the Contract Terms, or conditions and restrictions of any Applicable Governmental Restrictions. CDC's consent to such assignment shall be expressly conditioned upon (i) the assignee's execution of such documents as required by CDC in its sole discretion including, without limitation, any and all documents deemed necessary by CDC to provide for said assignee's assumption of all of the obligations of Developer hereunder and under the Agreement, and (ii) CDC's approval of the financial and credit-worthiness of such proposed assignee and the assignee's ability to perform all of the Developer's obligations under this Agreement.

Any attempt by Developer to assign any performance or benefit under the Contract Terms of this Agreement, without the prior written consent of CDC as provided herein, shall be null and void and shall constitute a material breach of this Agreement. In accordance with the foregoing, in the event of (i) a sale or transfer of Developer's interest in the Site, or (ii) a sale or transfer of more than forty-nine percent (49%) of its present ownership and/or control, in the aggregate, taking all transfers into account on a cumulative basis, or (iii) a sale or transfer of the Project, occurring without the written consent of CDC, CDC may, at its sole option, by written notice to Developer, declare Developer in default under this Agreement.

## **9. EVENTS OF DEFAULT AND REMEDIES.**

9.1 Developer Events of Default. The occurrence of any of the following shall, after the giving of any written notice and the expiration of any applicable cure period described therein, constitute an event of default by Developer hereunder ("**Event of Default**"):

9.1.1 The failure of Developer to pay or perform any monetary covenant or obligation hereunder, without curing such failure within ten (10) days after receiving written notice from CDC that such payment is due;

9.1.2 The failure of Developer to perform any non-monetary covenant or obligation hereunder or under the Contract Terms of this Agreement, without curing such failure within thirty (30) days after receipt of written

notice of such default from CDC (or from any party authorized by CDC to deliver such notice as identified by CDC in writing to Developer) specifying the nature of the event or deficiency giving rise to the default and the action required to cure such deficiency; provided, however, that if any default with respect to a non-monetary obligation is such that it cannot be cured within a thirty (30) day period, it shall be deemed cured if Developer commences the cure within said thirty (30) day period and diligently prosecutes such cure to completion thereafter with the cure completed in any event within no greater than one hundred eighty (180) days after the notice. Notwithstanding anything herein to the contrary, the herein described cure periods shall not apply to any Event of Default described in Sections 9.1.3 through 9.1.7 below;

- 9.1.3 The material falsity of any representation or breach of any warranty made by Developer under the Contract Terms of this Agreement;
- 9.1.4 Developer or any constituent member or partner, or majority shareholder, of Developer shall (a) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian or the like of its property, (b) fail to pay or admit in writing its inability to pay its debts generally as they become due, (c) make a general assignment for the benefit of creditors, (d) be adjudicated a bankrupt or insolvent or (e) commence a voluntary case under the Federal bankruptcy laws of the United States of America or file a voluntary petition that is not withdrawn within ninety (90) days of the filing thereof or answer seeking an arrangement with creditors or an order for relief or seeking to take advantage of any insolvency law or file an answer admitting the material allegations of a petition filed against it in any bankruptcy or insolvency proceeding;
- 9.1.5 If without the application, approval or consent of Developer, a proceeding shall be instituted in any court of competent jurisdiction, under any law relating to bankruptcy, with respect to Developer, for an order for relief or an adjudication in bankruptcy, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or custodian or the like of Developer or of all or any substantial part of Developer's assets, or other like relief in respect thereof under any bankruptcy or insolvency law, and, if such proceeding is being contested by Developer, in good faith, the same shall (a) result in the entry of an order for relief or any such adjudication or appointment, or (b) continue undismissed, or pending and unstayed, for any period of ninety (90) consecutive days;
- 9.1.6 Following completion of the construction of the Project, voluntary cessation of the operation of the Project by Developer for a continuous period of more than thirty (30) days or the involuntary cessation of the

operation of the Project, except as provided in Section 23 hereof, by Developer for a continuous period of more than sixty (60) days;

9.1.7 Developer shall suffer or attempt to effect an assignment in violation of Section 8 or a transfer as defined in Section 22 below.

9.2 CDC Remedies. Upon the occurrence of an Event of Default hereunder and the expiration of the relevant cure period described in Section 9 hereof, CDC may, in its sole discretion, take any one or more of the following actions:

9.2.1 By notice to Developer, declare the Developer in default of this Agreement, and require that title of the Site be reverted to the CDC;

9.2.2 CDC may take any and all actions and do any and all things which are allowed, permitted or provided by law, in equity or by statute, in the sole discretion of CDC, to retrieve ownership of the Site and/or to enforce performance and observance of any obligation, agreement or covenant of the Developer under this Agreement or under any other document executed in connection herewith;

9.2.3 Intentionally omitted;

9.2.4 Upon the occurrence of an Event of Default which is occasioned by Developer's failure to pay money, whether under this Agreement, the CDC may, but shall not be obligated to, make such payment. If such payment is made by CDC, Developer shall deposit with CDC, upon written demand therefore, such sum plus interest at a rate of 10%. The Event of Default with respect to which any such payment has been made by CDC shall not be deemed cured until such repayment has been made by Developer; and

9.2.5 Upon the occurrence of an Event of Default described in Section 9.1.4 or 9.1.5 hereof, CDC shall be entitled and empowered by intervention in such proceedings or otherwise to file and prove a claim for the return of ownership of the Site, in the case of commencement of any judicial proceedings, to file such proof of claim and other papers or documents as may be necessary or advisable in the judgment of CDC and its counsel to protect the interests of CDC and to collect and receive any monies or other property in satisfaction of its claim.

9.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to CDC is intended to be exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute; and may be exercised in such number, at such times and in such order as CDC may determine in its sole discretion. No delay or omission to exercise

any right or power upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient by CDC. In order to entitle CDC to exercise any right or remedy reserved to it under this Agreement, no notice shall be required except as expressly provided herein.

**9.4 CDC Default and Developer Remedies.** Upon fault or failure of CDC to meet any of its obligations under this Agreement without curing such failure within thirty (30) days after receipt of written notice of such failure from Developer specifying the nature of the event or deficiency giving rise to the default and the action required to cure such deficiency provided, however, that if any CDC default cannot be cured in said thirty (30) day period, it shall be deemed cured if CDC commences the cure within the thirty (30) day period and diligently promotes such cure to completion, Developer may, as its sole and exclusive remedies:

9.4.1 Bring an action in equitable relief seeking the specific performance by CDC of the Contract Terms and conditions of this Agreement or seeking to enjoin any act by CDC which is prohibited hereunder; and

9.4.2 Bring an action for declaratory relief seeking judicial remedies for Contract determination of the meaning of any provision of this Agreement.

Developer shall in no event be entitled to, and hereby waives, any right to seek monetary damages of any kind or nature, including, but not limited to, indirect or consequential damages of any kind or nature from CDC arising out of or in connection with this Agreement, the Site, or the Project. In connection with such waiver:

THE DEVELOPER ACKNOWLEDGES THE PROTECTIONS OF CIVIL CODE SECTION 1542 RELATIVE TO THE WAIVER AND RELEASE CONTAINED IN THIS Section 9.4, WHICH CIVIL CODE SECTION READS AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

(a) BY INITIALING BELOW, THE DEVELOPER KNOWINGLY AND VOLUNTARILY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE WAIVERS AND RELEASES OF THIS Section 9.4.

\_\_\_\_\_  
Initials of Authorized  
Developer Representative

## **10. RIGHT OF ACCESS AND INSPECTION.**

Upon twenty-four (24) hours prior written notice, CDC shall have the right, at any time during normal business hours and from time to time, to enter upon the Site for purposes of inspection. If CDC in its reasonable discretion determines that the Project is not being operated in conformity with this Agreement, or any Applicable Governmental Restrictions, CDC may at its election, after notice to and consultation with the Developer and affording the Developer thirty (30) days after such notice to cure the matter (provided, however, that if such matter cannot be cured within a thirty (30) day period, it shall be deemed cured if Developer commences the cure within said thirty (30) day period and diligently prosecutes such cure to completion thereafter) and the Developer fails to cure the matter, itself cure the matter. Inspection by CDC of the Project or the Site shall not be construed as an acknowledgement, acceptance or representation by CDC or the County that there has been compliance with any Contract Terms or provisions of this Agreement, nor that the services provided by Developer and its employees, agents and consultants are in compliance with any Applicable Governmental Restrictions or other applicable standards.

## **11. CONFLICT OF INTEREST; NO INDIVIDUAL LIABILITY.**

No official or employee of CDC shall have any personal interest, direct or indirect, in this Agreement, nor shall any official or employee of CDC participate in any decision relating to this Agreement which affects such official's or employee's pecuniary interest in any corporation, partnership or association in which such official or employee is directly or indirectly interested. No official or employee of CDC shall be personally liable in the event of a breach of this Agreement by CDC.

## **12. AMENDMENTS, CHANGES AND MODIFICATIONS.**

This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof and supersedes all prior negotiations, agreements and understandings of the Parties with respect to the subject matter hereof. All exhibits, recitals and schedules referred to in this Agreement are attached and incorporated by this reference. This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of the Parties hereto.

## **13. EXECUTION OF COUNTERPARTS.**

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same document.

## **14. NOTICES.**

All notices, demands, requests, elections, approvals, disapprovals, consents or other communications given under this Agreement shall be in writing and shall be given

by personal delivery, facsimile, certified mail (return receipt requested), or overnight guaranteed delivery service and addressed or faxed as follows:

If to CDC:                   Community Development Commission  
of the County of Los Angeles  
Two Coral Circle  
Monterey Park, California 91755-7425  
Attn: Executive Director  
Fax No. (323) 890-8584

With a copy to:           Community Development Commission  
of the County of Los Angeles  
4800 E. Cesar E. Chavez Avenue  
Los Angeles, California 90022  
Attn: Director of Construction Management Division  
Fax No. (323) 266-5930

If to Developer:           Young Women's Christian Association of Greater Los Angeles  
3345 Wilshire Blvd, Suite 300  
Los Angeles, CA 90010  
Attn: Faye Washington, CEO  
Fax No. (213) 365-9887

With copy to:            Young Women's Christian Association of Greater Los Angeles  
3345 Wilshire Blvd, Suite 300  
Los Angeles, CA 90010  
Attn: Elaine Moore, CAO  
Fax No. (213) 365-9887

Notices shall be effective upon receipt, if given by personal delivery; upon receipt, if faxed, provided there is written confirmation of receipt (except that if received after 5 p.m., notice shall be deemed received on the next business day); the earlier of (i) three (3) business days after deposit with United States Mail, or (ii) the date of actual receipt as evidenced by the return receipt, if delivered by certified mail; or (iii) one (1) day after deposit with the delivery service, if delivered by overnight guaranteed delivery service. Each party shall promptly notify the other party of any change(s) of address or fax to which notice shall be sent pursuant to this Agreement.

## **15. SEVERABILITY.**

The invalidity or unenforceability of any one or more provisions of this Agreement will in no way affect any other provision.

## **16. INTERPRETATION.**

Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the paragraphs of this Agreement are for convenience only and do not define or limit any Contract Terms or provisions. Time is of the essence in the performance of this Agreement by Developer. Each Party has been represented by counsel in the negotiation of this Agreement, and it shall not be interpreted in favor of or against any Party on account of relative responsibilities in drafting.

## **17. NO WAIVER; CONSENTS.**

Any waiver by CDC must be in writing and will not be construed as a continuing waiver. No waiver will be implied from any delay or failure by CDC to take action on account of any default of Developer. Consent by CDC to any act or omission by Developer will not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for CDC's consent to be obtained in any future or other instance.

## **18. GOVERNING LAW.**

This Agreement shall be governed by the laws of the State of California.

## **19. REPRESENTATIONS AND WARRANTIES OF DEVELOPER.**

Developer hereby represents and covenants to CDC that as of the Effective Date:

A. Organization and Standing. Developer is a legal entity as described in the Transaction Summary above, duly formed, qualified to operate in California and validly existing and in good standing in the State of California, and has all requisite power and authority to enter into and perform its obligations under this Agreement and all other documents executed in connection herewith.

B. Enforceability. This Agreement, and all other instruments to be executed by Developer in connection with the Agreement, constitutes the legal, valid and binding obligation of Developer, without joinder of any other party.

C. Authorization and Consents. The execution, delivery and performance of this Agreement and all other instruments to be executed in connection herewith is consistent with the operating agreement, partnership agreement, or articles and bylaws governing Developer, and have been duly authorized by all necessary action of Developer's members, partners, directors, officers and shareholders.

D. Due and Valid Execution. This Agreement and all other instruments to be executed in connection herewith, will, as of the date of their execution, have been duly and validly executed by Developer.

E. Licenses. Developer will obtain and maintain all material licenses, permits, consents and approvals required by all applicable governmental authorities to own and operate the Project.

F. Litigation and Compliance. There are no suits, other proceedings or investigations pending or to Developer's actual and constructive knowledge, threatened against, or affecting the business or the properties of Developer (other than those as have been previously disclosed in writing to CDC) which could be reasonably expected to impair its ability to perform its obligations under this Agreement, nor is Developer in violation of any laws or ordinances which could impair Developer's ability to perform its obligations under this Agreement.

G. Default. To Developer's actual and constructive knowledge, there are no facts now in existence which would, with the giving of notice or the lapse of time, or both, constitute an "Event of Default" hereunder, as described in Section 9.

H. No Violations. The execution and delivery of this Agreement, and all other documents executed or given hereunder, and the performances thereunder by Developer, as applicable, will not constitute a breach of or default under any instrument or agreement to which Developer may be a party nor will the same constitute a breach of or violate any law or governmental regulation.

## **20. APPROVALS.**

Any consent to an assignment or a transfer under Section 8 or 22 of this Agreement, and any other consent or approval by CDC under this Agreement, may require action by the governing board of the CDC.

Except with respect to those matters set forth hereinabove providing for CDC's approval, consent or determination to be at CDC's "sole discretion" or "sole and absolute discretion," CDC hereby agrees to act reasonably with regard to any approval, consent, or other determination given by CDC hereunder. CDC agrees to give Developer written notice of its approval or disapproval following submission of items to CDC for approval, including, in the case of any disapproved item, the reasons for such disapproval. Any review or approval of any matter by CDC or any CDC official or employee under this Agreement shall be solely for the benefit of CDC, and neither Developer nor any other person shall rely upon such review or approval as an indication of the wisdom, soundness, safety, appropriateness, or presence or absence of any matter. Without limiting the generality of the foregoing, Developer and not CDC shall be solely responsible for assuring compliance with laws, and the operation of the Project.

## **21. GOOD FAITH AND FAIR DEALING.**

CDC and Developer agree to perform all of their obligations and the actions required of each hereunder in good faith and in accordance with fair dealing.

## **22. ASSIGNMENT OF INTEREST IN THE SITE OR THE PROJECT.**

Without the prior written approval of CDC (or CDC's Executive Director), which approval CDC may withhold in its sole and absolute discretion, Developer shall not (i) sell, encumber, assign or otherwise transfer (collectively, "**Transfer**") all or any portion of its interest in the Site or the Project; or (ii) permit the Transfer of greater than forty-nine percent (49%) of its ownership and/or control, in the aggregate, taking all transfers into account on a cumulative basis. Notwithstanding the foregoing, CDC hereby consents to the events described in Section 8.0 hereof without Developer obtaining any further consent from CDC. Developer hereby agrees that any purported Transfer not approved by CDC as required herein shall be ipso facto null and void, and no voluntary or involuntary successor to any interest of Developer under such a proscribed Transfer shall acquire any rights pursuant to this Agreement.

22.1 At any time Developer desires to effect a Transfer hereunder, Developer shall notify CDC in writing (the "**Transfer Notice**") and shall submit to CDC for its prior written approval (i) all proposed agreements and documents (collectively, the "**Transfer Documents**") memorializing, facilitating, evidencing and/or relating to the circumstances surrounding such proposed Transfer, and (ii) a certificate setting forth representations and warranties by Developer and the proposed transferee to CDC sufficient to establish and ensure that all requirements of this Section 22 have been and will be met. No Transfer Documents shall be approved by CDC unless they expressly provide for the assumption by the proposed transferee of all of Developer's obligations under the Agreement. The Transfer Notice shall include a request that CDC consent to the proposed Transfer. CDC agrees to make its decision on Developer's request for consent to such Transfer promptly, and use reasonable efforts to respond not later than thirty (30) days after CDC receives the last of the items required by this Section 22. In the event CDC consents to a proposed Transfer, then such Transfer shall not be effective unless and until CDC receives copies of all executed and binding Transfer Documents which Transfer Documents shall conform with the proposed Transfer Documents originally submitted by Developer to CDC. From and after the effective date of any such Transfer, Developer shall be released from its obligations under the Agreement accruing subsequent such effective date.

22.2 Notwithstanding anything in this Agreement to the contrary, Developer agrees that it shall not be permitted to make any Transfer, whether or not CDC's consent is required thereof and even if CDC has consented thereto, if there exists an Event of Default under this Agreement at the time the Transfer Notice is

tendered to CDC or at any time thereafter until such Event of Default has been cured.

The provisions of this Section 22 shall apply to each successive Transfer and proposed transferee in the same manner as initially applicable to Developer under the Contract Terms set forth herein.

### **23. UNAVOIDABLE DELAY; EXTENSION OF TIME OF PERFORMANCE.**

Subject to specific provisions of this Agreement, performance by either Party under this Agreement shall not be deemed, or considered to be in default (and an Event of Default shall not be deemed to have occurred), where any such default (or Event of Default) is due to an Unavoidable Delay. As used herein, "Unavoidable Delay" means and refers to a delay in performing any obligation under this Agreement arising from or on account of any cause whatsoever beyond the Party's reasonable control, despite such Party's reasonable diligent efforts, including, but not limited to, industry-wide strikes, labor troubles or other union activities, casualty, war, acts of terrorism or riots. Any Party claiming Unavoidable Delay shall notify the other Party within a reasonable time after such Party knows of any such Unavoidable Delay; and (b) within five (5) days after such Unavoidable Delay ceases to exist. The extension of time for an Unavoidable Delay shall commence on the date of receipt of written notice of the occurrence of the Unavoidable Delay by the Party not requesting an extension of time to perform due to such Unavoidable Delay and shall continue until the end of the condition causing the Unavoidable Delay. The Party seeking to be excused from performance shall exercise its commercially reasonable efforts to cure the condition causing the Unavoidable Delay, within a reasonable time.

## **24. PROJECT COSTS**

CDC shall hold all funds listed in the Project Budget that are approved by the Board of Commissioners in an account to be controlled by CDC subject to the provisions of this Agreement. Developer shall submit to CDC a draw request each month, in a form with back-up documentation reasonably acceptable to CDC and Developer, requesting funds in accordance with the Project Budget for all unpaid amounts ("Draw Requests"). CDC shall be responsible for funding each such Draw Requests in a timely manner upon its receipt of the fully executed Draw Request.

## **25. INDEPENDENT CONSULTANT**

The Consultant shall perform the Services as an independent consultant and shall not be considered an employee of the Commission or under Commission supervision or control. This Contract is by and between the Consultant and the Commission, and is not intended, and shall not be construed, to create the relationship of agent, employee, or joint venture, between the Commission and the Consultant.

The Consultant agrees that any claims, liability, damage, or lawsuits resulting from its negligence, including items that are not in compliance with federal, state, or local codes, regulations and laws, will be the sole responsibility of the Consultant.

If the Developer is comprised of more than one legal entity, each such entity shall be jointly and severally liable and responsible hereunder.

## **26. EMPLOYEES OF CONSULTANT**

Workers' Compensation: Developer understands and agrees that all persons furnishing services to the Commission pursuant to this Contract are, for the purpose of workers' compensation liability, employees solely of Developer. Developer shall bear sole responsibility and liability for providing workers' compensation benefits to any person for injury arising from an accident connected with services provided to the Commission under this Contract.

Professional Conduct: The Commission does not and will not condone any act, gestures, comments or conduct from the Developer's employees, agents or subconsultants which may be construed as sexual harassment or any other type of activity or behavior that might be construed as harassment. The Commission will properly investigate all charges of harassment by residents, employees or agents of the Commission against any and all Developer's employees, agents or subconsultants providing services for the Commission. The Developer assumes all liability for the actions of the Developer's employees, agents or subconsultants and is responsible for taking appropriate action after the Developer receives reports of harassment.

**27. DEVELOPER'S WARRANTY OF ADHERENCE TO COMMISSION'S CHILD SUPPORT COMPLIANCE PROGRAM**

The Developer acknowledges that the Commission has established a goal of ensuring that all individuals who benefit financially from the Commission through a contract, are in compliance with their court-ordered child, family, and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the taxpayers of the County of Los Angeles.

As required by Commission Child Support Compliance Program and without limiting Developer's duty under this Contract to comply with all applicable provisions of law, Developer warrants that it is now in compliance and shall, during the term of this Contract, maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or CSSD Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

**28. TERMINATION FOR BREACH OF WARRANTY TO COMPLY WITH COMMISSION'S CHILD SUPPORT COMPLIANCE PROGRAM**

Failure of the Developer to maintain compliance with the requirements set forth in Paragraph 27, "*DEVELOPER'S WARRANTY OF ADHERENCE TO COMMISSION'S CHILD SUPPORT COMPLIANCE PROGRAM*" shall constitute default under this Contract. Without limiting the rights and remedies available to Commission under any other provision of this Contract, failure of Developer to cure such default within ninety (90) calendar days of written notice shall be grounds upon which Commission may terminate this contract pursuant to Paragraph 9.3 - "TERMINATION FOR CAUSE" and pursue debarment of Developer, pursuant to Commission Policy.

**29. POST MOST WANTED DELINQUENT PARENTS LIST**

The Developer acknowledges that the County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. The Developer understands that it is County's and Commission's policy to strongly encourage all Developers to voluntarily post an entitled "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at Developer's place of business. The Child Support Services Department (CSSD) will supply Developer with the poster to be used.

**30. INDEPENDENT CONTRACTOR**

This Contract does not, is not intended to, nor shall it be construed to create the relationship of agent, employee or joint venture between the Commission and the Developer. The Developer's relationship to the Commission is solely as an independent contractor.

### **31. DRUG-FREE WORKPLACE ACT OF THE STATE OF CALIFORNIA**

The Developer certifies under penalty of perjury under the laws of the State of California that the Developer will comply with the requirements of the Drug-Free Workplace Act of 1990.

### **32. SAFETY STANDARDS AND ACCIDENT PREVENTION**

The Developer shall comply with all applicable federal, state and local laws governing safety, health and sanitation. The Developer shall provide all safeguards, safety devices and protective equipment and take any other needed actions, as its own responsibility, reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of this Contract.

### **33. COMPLIANCE WITH LAWS**

The Developer agrees to be bound by all applicable federal, state and local laws, regulations, and directives as they pertain to the performance of this Contract, including but not limited to, the Housing and Community Development Act of 1974, as amended by the Cranston-Gonzalez National Affordable Housing Act, 1990, and the 24 CFR Part 85, and the Americans with Disabilities Act of 1990. If the compensation under this Contract is in excess of \$100,000 then Developer shall comply with applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 18579h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 CFR part 15).

The Developer must obtain and present all relevant state and local insurance, training and licensing pursuant to services required within this Contract.

#### **Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973**

No person in the United States shall be excluded from participating in, be denied the benefits of, or subject to discrimination under this Contract on the basis of age or with respect to an otherwise qualified disabled individual.

Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

During the performance of the Contract, the Developer agrees to comply with the following federal provisions:

**Civil Rights Act of 1964, Title VI (Non-Discrimination in Federally-Assisted Programs)**

The Developer shall comply with the Civil Rights Act of 1964 Title VI which provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

**Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973**

The Developer shall comply with the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, which require that no person in the United States shall be excluded from participating in, denied the benefits of, or subject to discrimination under this Contract on the basis of age or with respect to an otherwise qualified disabled individual.

**Executive Order 11246 and 11375, Equal Opportunity in Employment (non-discrimination in Employment by Government Consultants and Subconsultants)**

The Developer shall comply with Executive Order 11246 and 11375, Equal Opportunity in Employment, which requires that during the performance of this Contract, the Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Developer will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising;

layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the non-discrimination clause.

The Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The Developer will send to each labor union or representative of workers with which he has a collective bargaining Contract or other contract or understanding, a notice to be provided by the agency of the Developer's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Developer will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Developer will furnish all information and reports required by the Executive Order and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Commission and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of Developer's noncompliance with the non-discrimination clauses of this Contract or with any of such rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Developer may be declared ineligible for further Government contracts in accordance with procedures authorized in the Executive Orders and such other sanctions may be imposed and remedies invoked as provided in the Executive Order or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

The Developer will include the provisions of these paragraphs in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of the Executive Order No. 11246 of September 24, 1965, that such provisions will be binding upon each subcontractor or vendor. The Developer will take such actions with respect to any subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance, provided however, that in the event the Developer becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by the Commission, the Developer may request the United States to enter into such litigation to protect the interests of the United States.

### **Section 3 or GAIN/GROW**

Depending on the funding source, the applicable of either Section 3 or GAIN/GROW will apply. If the contract is funded with federal source(s), Section 3 will apply. If the

project is funded with a non-federal source(s), GAIN/GROW would apply. If the project is funded with both federal and nonfederal sources, Section 3 would apply.

**Section 3 of the Housing and Urban Development Act of 1968, as Amended (if applicable)**

The work to be performed under this Contract may be subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this Contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

The Developer agrees to send to each labor organization or representative of workers with which the Developer has a collective bargaining Contract or other understanding, if any, a notice advising the labor organization or workers' representative of the Developer's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The Developer agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The Developer will not subcontract with any subcontractor where the Developer has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

The Developer will certify that any vacant employment positions, including training positions, that are filled (1) after the Developer is selected but before the Contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Developer's obligations under 24 CFR Part 135.

Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.

With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

OR

Greater Avenues for Independence (Gain) Program and General Relief Opportunity for Work (Grow) Program (if applicable)

Should the Developer require additional or replacement personnel after the effective date of this Contract, the Developer shall give consideration for any such employment openings to participants in the County's Department of Public Social Services' Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Developer's minimum qualifications for the open position. The Developer shall contact the County's GAIN/GROW Division at (626) 927-5354 for a list of GAIN/GROW participants by job category.

#### **34. CONSULTANT'S WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM**

Developer acknowledges that Los Angeles (County) has established a goal of ensuring that all individuals and businesses that benefit financially from County through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

Unless Developer qualifies for an exemption or exclusion, Developer warrants and certifies that to the best of its knowledge, it is now in compliance, and during the term of this Contract will maintain compliance, with Los Angeles County Code Chapter 2.206.

**35. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM**

Failure of Developer to maintain compliance with the requirements set forth in paragraph 26 "CONSULTANT'S WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM" shall constitute a default under this Contract. Without limiting the rights and remedies available to Commission or County under any other provision of this Contract, failure of Developer to cure such default within 10 days of notice shall be grounds upon which Commission/County may terminate this Contract and/or pursue debarment of Developer pursuant to County Code Chapter 2.206.

**36. FEDERAL LOBBYIST REQUIREMENTS**

The Developer is prohibited by the Department of Interior and Related Agencies Appropriations Act, known as the Byrd Amendments, and HUD's 24 CFR Part 87, from using federally appropriated funds for the purpose of influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, loan or cooperative Contract, and any extension, continuation, renewal, amendment or modification of said documents.

The Developer must certify in writing on the Federal Lobbyist Requirements Certification form that they are familiar with the Federal Lobbyist Requirements and that all persons and/or subcontractors acting on behalf of the Developer will comply with the Lobbyist Requirements.

Failure on the part of the Developer or persons/subcontractors acting on behalf of the Developer to fully comply with the Federal Lobbyist Requirements may be subject to civil penalties.

**37. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT**

The Developer shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

**38. USE OF RECYCLED-CONTENT PAPER PRODUCTS**

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Developer agrees to use recycled-content paper to the maximum extent possible on the Project.

### **39. DEVELOPER RESPONSIBILITY AND DEBARMENT**

- A. A responsible Developer is a contractor, developer, vendor, or operating agency who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the policy of the Commission and County to conduct business only with responsible Developers.
  
- B. The Developer is hereby notified that if the Commission acquires information concerning the performance of the Developer on this or other contracts which indicates that the Developer is not responsible, the Commission may, in addition to other remedies provided in this Contract, debar the Developer from bidding or proposing on, or being awarded, and/or performing work on Commission contracts for a specified period of time, which generally will not to exceed five years, but may exceed five years or be permanent if warranted by circumstances, and terminate any or all existing contracts the Developer may have with the Commission.
  
- C. The Commission may debar a contractor, developer, vendor or operating agency if the Board of Commissioners finds, in its discretion, that the Developer, consultant, vendor, or operating agency has done any of the following: (1) violated any term of a contract with the Commission, County, or a nonprofit corporation created by the Commission or County (2) committed any act or omission which negatively reflects on the its quality, fitness or capacity to perform a contract with the Commission, County, or any other public entity, or a nonprofit corporation created by the Commission or County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the Commission, County, or any other public entity.
  
- D. If there is evidence that the Developer may be subject to debarment, the Commission will notify the Developer in writing of the evidence, which is the basis for the proposed debarment and will advise the Developer of the scheduled date for a debarment hearing before the Contractor Hearing Board.

- E. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Developer and/or the Developer's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Developer should be debarred, and, if so, the appropriate length of time of the debarment. The Developer and the Commission shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Commissioners.
  
- F. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision and any other recommendation of the Contract Hearing Board shall be presented to the Board of Commissioners. The Board of Commissioners shall have the right to modify, deny or adopt the proposed decision and recommendation of the Hearing Board.
  
- G. If a Developer has been debarred for a period longer than five years, that Developer may, after the debarment has been in effect for at least five years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The Commission may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Developer has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the Commission.
  
- H. The Contractor Hearing Board will consider a request for review of the debarment determination only where (1) the Developer has been debarred for a period longer than five years; (2) the debarment has been in effect for at least five years; and (3) the request is in writing, states one or more of the ground for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment Hearing.

The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Commissioners. The Board of Commissioners shall have the right to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.

- I. These terms shall also apply to subcontractors and subconsultants of County or Commission contractors, developers, vendors and operating agencies.

#### **40. COMPLIANCE WITH JURY SERVICE PROGRAM**

Unless the Developer has demonstrated to the Commission satisfaction either that Developer is not a "Contractor" as defined under the Jury Service Program or that Developer qualifies for an exception to the Jury Service Program, Developer shall have and adhere to a written policy that provides that its Employees shall receive from the Developer, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Developer or that the Developer deduct from the Employee's regular pay the fees received for jury service.

For purposes of this Section, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full time employee of Contractor. "Full time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Developer uses any subcontractor to perform services for the County under the Contract, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract Contract and a copy of the Jury Service Program shall be attached to the Contract.

If the Developer is not required to comply with the Jury Service Program when the Contract commences, Developer shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Developer shall immediately notify County if Developer at any time either comes within the Jury Service Program's definition of "Contractor" or if Developer no longer qualifies for an

exception to the Program. In either event, Developer shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that Developer demonstrate to the County's satisfaction that Developer either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Developer continues to qualify for an exception to the Program.

The Developer's violation of this Section of the Contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract and/or bar Developer from the award of future County contracts for a period of time consistent with the seriousness of the breach.

#### **41. ACCESS AND RETENTION OF RECORDS**

The Developer shall provide access to the Commission, the Federal Grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers and records of the Developer which are directly pertinent to this Contract for the purpose of making audits, examinations, excerpts and transcriptions.

The Developer is required to retain the aforementioned records for a period of five years after the Commission pays final payment and other pending matters are closed under this Contract.

#### **42. CONFLICT OF INTEREST**

The Developer represents, warrants and agrees that to the best of its knowledge, it does not presently have, nor will it acquire during the term of this Contract, any interest direct or indirect, by contract, employment or otherwise, or as a partner, joint venture or shareholder (other than as a shareholder holding a one (1%) percent or less interest in publicly traded companies) or affiliate with any business or business entity that has entered into any contract, subcontract or arrangement with the Commission. Upon execution of this Contract and during its term, as appropriate, the Developer shall, disclose in writing to the Commission any other contract or employment during the term of this Contract by any other persons, business or corporation in which employment will or may likely develop a conflict of interest between the Commission's interest and the interests of the third parties.

#### **43. NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW**

The Developer shall notify and provide to its employees, and shall require each subconsultant to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in *Attachment D – Required Contract Notices* of this Contract and is also available on the Internet at [www.babysafela.org](http://www.babysafela.org) for printing purposes.

#### **44. CONSULTANT’S ACKNOWLEDGMENT OF COMMISSION’S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW**

The Developer acknowledges that the Commission places a high priority on the implementation of the Safely Surrendered Baby Law. The Developer understands that it is the Commission’s policy to encourage all Commission Developers to voluntarily post the Commission’s “Safely Surrendered Baby Law” poster in a prominent position at the Developer’s place of business. The Developer will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor’s place of business. The Department of Children and Family Services of the County of Los Angeles will supply the Developer with the poster to be used.

#### **45. CONSULTANT’S CHARITABLE CONTRIBUTIONS COMPLIANCE**

The Supervision of Trustees and Fundraisers for Charitable Purposes Act regulates entities receiving or raising charitable contributions. The “Nonprofit Integrity Act of 2004” (SB 1262, Chapter 919) increased Charitable Purposes Act requirements. By requiring Developers to complete the Charitable Contributions Certification as included in *Attachment C – Required Contract Forms*, the Commission seeks to ensure that all Commission Developers that receive or raise charitable contributions comply with California law in order to protect the Commission and its taxpayers. A Developer that receives or raises charitable contributions without complying with its obligations under California law commits a material breach subjecting it to either contract termination or debarment proceedings, or both.

#### **46. CERTIFICATION REGARDING LOBBYING**

Developer is prohibited by the Department of the Interior and Related Agencies Appropriations Act, known as the Byrd Amendments, and HUD's 24 Code of the Federal Regulations (CFR) 87, from using federally appropriated funds for the purpose of influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal agreement, the



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date and year first above written.

**COMMUNITY DEVELOPMENT COMMISSION  
OF THE COUNTY OF LOS ANGELES**

By: \_\_\_\_\_  
Sean Rogan , Executive Director

APPROVED AS TO FORM:

ANDREA SHERIDAN ORDIN  
County Counsel

By: \_\_\_\_\_  
Deputy

**DEVELOPER:**  
YOUNG WOMEN'S CHRISTIAN  
ASSOCIATION OF GREATER LOS ANGELES  
a California nonprofit corporation

By: \_\_\_\_\_  
Name: Faye Washington  
Title: Chief Executive Officer

## **EXHIBIT A**

### **SCOPE OF WORK**

Developer shall renovate an existing vacant supermarket into a Family Development Center that will include a childcare center that shall provide a minimum of 50 child care spaces, and program space for youth, afterschool, and other community services. The Family Development Center shall be approximately 13,900 square feet. The child care center, set within the Family Development Center, shall provide the area required by the State of California to allow for licensing for the operation of the childcare programs. The Family Development Center will also provide a wide array of age-appropriate supportive services and resources such as childcare, English as a Second Language classes, parenting classes, health and wellness classes, computer training, senior activities, and other programs to children, youth, parents and seniors.

Developer shall retain an architect to develop site plans and submit to CDC for design review. Developer shall instruct architect to incorporate Crime Prevention Through Environmental Design (CPTED) principles to the design of the Family Development Center.

Developer shall be responsible for the construction of the facility, including securing all entitlements and approvals. Developer shall also ensure that all environmental mitigation measures included in Exhibit E are incorporated into the design and construction of the Family Development Center.

Developer shall be responsible for operating the Family Development Center.

Developer shall be responsible for complying with all reporting requirements herein.

Attached to this Exhibit, and incorporated herein by reference, are concept drawings of the proposed development that generally establishes and defines the scope of work of this project for the purpose of implementing the Agreement.

**EXHIBIT B**

**PROJECT BUDGET**

**TOTAL DEVELOPMENT BUDGET**

<b>COUNTY OF LOS ANGELES CAPITAL FUNDS</b>	<b>PHASE 1 FUNDING</b>	<b>PHASE 2 FUNDING</b>	<b>TOTAL</b>
	<b>PRE-DEVELOPMENT</b>	<b>REHABILITATION CONSTRUCTION / PERMANENT</b>	
CDC Acquisition/Holding Costs	\$1,828,000		\$1,828,000
CDC/CMD Fees	\$467,548	\$112,452	\$580,000
CDC held Contingency for Project	\$60,000	\$40,000	\$100,000
Development (Soft) Cost	\$1,144,452	\$342,131	\$1,486,583
Construction (Hard) Costs		\$5,258,630	\$5,258,630
<b>TOTAL DEVELOPMENT COST</b>	<b>\$3,500,000</b>	<b>\$5,753,213</b>	<b>\$9,253,213</b>
<b>FUNDING TO DEVELOPER UNDER DDA (UP TO AMOUNTS SUBJECT TO BOARD APPROVAL)</b>	<b>\$1,204,452</b>	<b>\$5,640,761</b>	<b>\$6,845,213</b>

Funding to the Developer under each of the above funding phases is subject to and requires a separate Board action to approve funds for each individual phase. Except for CDC Acquisition/Holding financing, no funding is committed to this project unless a Board action approves such funding for each phase.

**EXHIBIT C**  
**ASSESSOR'S PARCEL MAP**

**EXHIBIT C**

**ASSESSOR'S PARCEL MAP**

6201 17  
 SALE 1" = 80'  
**1990**



**LEGAL DESCRIPTION**

LOTS 388, 408, 409, AND 410 OF TRACT 2080, IN THE COUNTY OF LOS ANGELES,  
 STATE OF CALIFORNIA, AS PER MAPS RECORDED IN THE OFFICE OF THE COUNTY  
 RECORDER OF SAID COUNTY.

TRACT NO. 2080

M.B. 22-162-163

CORE  
 1064

FOR FEEL. ASSESS. SEE 410-9

ASSESSOR'S MAP  
 COUNTY OF LOS ANGELES, CALIF.

**EXHIBIT D**

**QUITCLAIM DEED**

**RECORDING REQUESTED BY  
HOUSING AUTHORITY OF THE  
COUNTY OF LOS ANGELES**

**WHEN RECORDED MAIL TO:**

Community Development Commission of the  
County of Los Angeles  
Construction Management Division  
4800 E. Cesar E. Chavez Avenue  
Los Angeles, CA 90022  
Attention: Bill Yee

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THIS DOCUMENT IS EXEMPT FROM DOCUMENTARY TRANSFER TAX  
PURSUANT TO SECTION 11922 OF THE REVENUE & TAXATION CODE

Space above the line for Recorder's use  
ASSESSOR'S IDENTIFICATION NUMBERS  
6201-017-024; 6201-017-022 and 6201-017-021

THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO  
SECTION 27383 OF THE GOVERNMENT CODE

**QUITCLAIM DEED**

THE **COMMUNITY DEVELOPMENT COMMISSION OF THE COUNTY OF LOS ANGELES**, a public body corporate and politic, ("Grantor"), for the sum of One Dollar (\$1.00), receipt of which is hereby acknowledged, does hereby surrender, quitclaim and release quitclaim to:

**Young Women's Christian Association of Greater Los Angeles ("Grantee")**

all of the rights, title and interest in and to the described real property ("Property"). The Property is located in the unincorporated territory of the County of Los Angeles, State of California and is more particularly described in the attached Attachment A, which is incorporated by reference as though set forth in full.

**SUBJECT TO AND GRANTEE TO ASSUME:**

- a. All taxes, interest, penalties and assessments of record assessed, but not yet due, if any.
- b. Covenants, conditions, restrictions, reservations, easements, rights, and rights-of-way of record, if any.
- c. At all times and under all conditions, said Property and all services provided thereon shall be equally open and available to County of Los Angeles ("County") residents of incorporated and unincorporated territory and there shall be no discrimination against or preference, gratuity, bonus or other benefit given County residents of the incorporated area not equally accorded County residents of the unincorporated territory.
- d. At all times and under all conditions, the Property shall be continuously operated as a family development center, which shall include a childcare center which shall provide a minimum of fifty (50) licensed preschool spaces, and space for community programming such as youth programs, after school programs, and other community related services. In the event that Grantor determines that Grantee or other owner in possession is not complying with this restriction and Grantee has not cured such failure to comply within thirty (30) days after receipt of written notice from Grantor (or if such failure to comply cannot be cured within thirty (30) days, it shall be deemed cured if Developer commences the cure within said thirty (30) day period and diligently prosecutes such cure to completion thereafter with the cure completed in any event within no greater than one hundred eighty (180) days after notice), and Grantor has not otherwise provided



IN WITNESS WHEREOF, the Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers thereunto duly authorized this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

GRANTOR:

COMMUNITY DEVELOPMENT COMMISSION  
OF THE COUNTY OF LOS ANGELES

By \_\_\_\_\_  
SEAN ROGAN, Executive Director

APPROVED AS TO FORM:

OFFICE OF THE COUNTY COUNSEL

By \_\_\_\_\_  
Deputy

STATE OF California )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence—to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

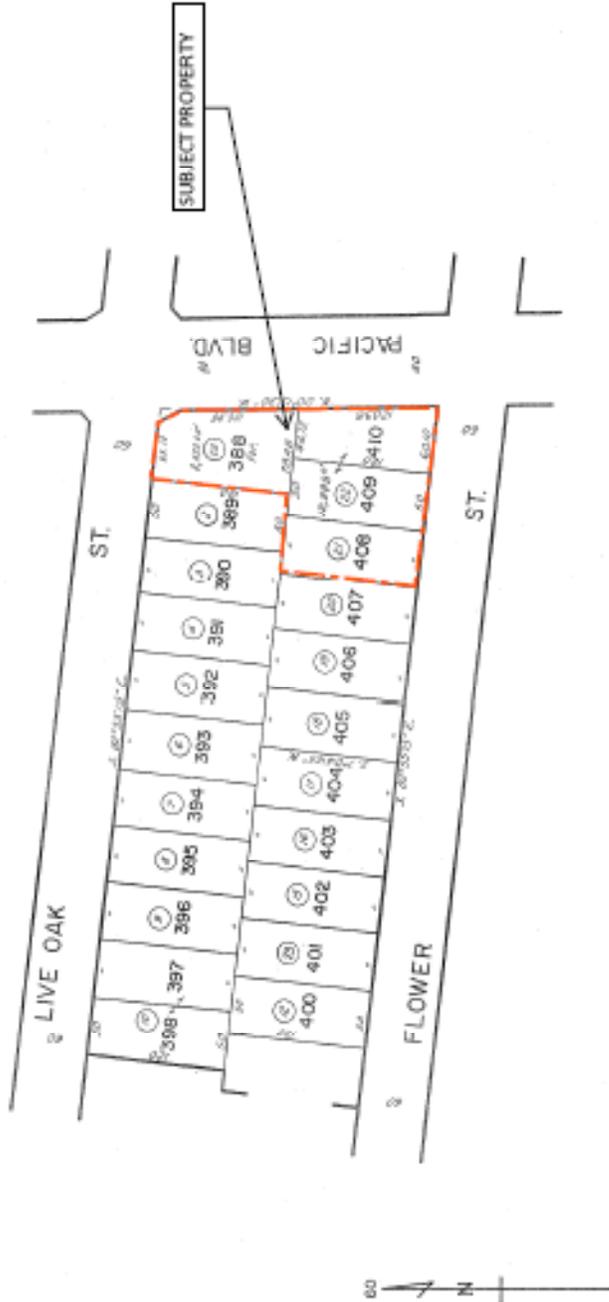
\_\_\_\_\_  
*Notary Public*

(Seal)

# ATTACHMENT A

## ASSESSOR'S PARCEL MAP

5201 17  
 SCALE 1" = 80'  
 1990



### LEGAL DESCRIPTION

TRACT NO. 2080  
 M.B. 22-162-163

LOTS 388, 408, 409, AND 410 OF TRACT 2080, IN THE COUNTY OF LOS ANGELES,  
 STATE OF CALIFORNIA, AS PER MAPS RECORDED IN THE OFFICE OF THE COUNTY  
 RECORDER OF SAID COUNTY.

CODE  
 1064

FOR PREV. ASSGMT. SEE 410 - 9

ASSESSOR'S MAP  
 COUNTY OF LOS ANGELES, CALIF.

## EXHIBIT E

### ENVIRONMENTAL MITIGATION MEASURES

Title: YWCAGLA Pacific Boulevard Family Development Center

The following special conditions/environmental mitigation measures must be included in the project contract and later implemented as part of the project scope to alleviate adverse environmental impacts. The environmental clearance is conditioned upon the implementation of all special conditions/mitigation measures:

1. Asbestos and Lead Surveys. Prior to demolition or construction activities being conducted onsite, a survey shall be conducted for the presence of asbestos containing materials (ACM) and lead-based paint (LBP), and, if either is detected onsite, appropriate abatement and/or management actions shall be undertaken in accordance with applicable regulations.
2. Solid Waste Recycling. Because of ongoing concerns about available landfill capacity, project design shall incorporate space for separate bins for waste and recyclable materials.
3. Water Supply. Because of ongoing concerns about regional water supplies, the following shall be incorporated into project design:
  - To the degree feasible, landscaped areas shall be designed with drought-tolerant species. Irrigation shall be accomplished with drip systems. Planting beds shall be heavily mulched in accordance with water-conserving landscape design practice.
  - All new structures shall be fitted with water conserving fixtures, including, but not limited to, low flow faucets and toilets.
4. Archaeological Resources. In the event that archaeological resources are unearthed during project construction, all earth disturbing work within the APE must be temporarily suspended until an archaeologist has evaluated the nature and significance of the find. After the find has been appropriately mitigated, work in the area may resume. A Gabriolino representative should monitor any archaeological field work associated with Native American materials. If human remains are unearthed, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the Los Angeles County Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission.
5. Additional Modifications. Minor changes to the mitigation measures required as a condition of funding approval are permitted, but can only be made with the approval of the Executive Director of the Community Development Commission (CDC) of Los Angeles County.

## EXHIBIT F

### MAINTENANCE STANDARDS

#### Community Development Commission of the County of Los Angeles ORDINARY MAINTENANCE AND REPAIRS

Ordinary maintenance is the routine work of keeping the buildings, grounds, and equipment in such condition that they may be utilized continually at their original or designed capacities and efficiencies for their intended purposes. Minor repair is the restoration of the facility to a condition substantially equivalent to its original capacity. Minor replacement is the substitution of component parts of equipment to extend its useful life.

In order to assure that the Family Development Center on the Site is kept in a decent, safe, and sanitary condition, the buildings, grounds, and equipment are to be maintained in a manner that will preserve their condition (less ordinary wear and tear). "Grounds" includes lawns, roads, walks and other paved areas, trees and plants, fences, play areas, drainage facilities, etc. "Buildings" includes roofs, attic spaces, gutters and downspouts, walls, porches, foundations, crawl spaces, windows, floors, doors, etc. "Equipment" covers all items such as utility lines and piping, heating and plumbing equipment, pumps and tanks, ranges and refrigerators, tools, etc.

Set forth below are the standards for the degree of maintenance, repair and cleaning necessary to qualify as "safe, decent and sanitary."

#### EXTERIOR PROPERTY AREAS

- A. Sanitation. Outdoor spaces shall be clean and sanitary. All rubbish, garbage, trash, litter, debris, and abandoned personal property are to be removed from the grass, walks, steps, parking areas, and other grounds, as well as the roofs, gutters and window wells.
- B. Lawn Maintenance. Grounds shall be examined for proper drainage and, if necessary, graded to prevent the accumulation of stagnant water and to prevent water from seeping into building structures. All soil areas shall be sodded or seeded, as necessary, to prevent erosion, except garden areas at scattered sites. Weeds, saplings and uncut grass along the foundations of the house and garage, the fences, the walks, the parking areas, the sidewalk expansion joints and the window wells are to be removed. All grounds are to be free of noxious weeds. Bushes, hedges and trees are to be trimmed, if necessary. Grass shall be cut as often as necessary so that it does not exceed five (5) inches in height. The outdoor spaces will be raked, as necessary.
- C. Walks and Steps. All front walks, sidewalks, rear walks, steps, driveways and parking pads shall be maintained in such a manner that there are no

cracks or heaves large enough to create a safety hazard. Remove chipped and loose pieces of concrete and asphalt, as needed. Remove all graffiti.

## **EXTERIOR STRUCTURES -- DWELLING AND GARAGE**

- D. Foundation, Walls, and Roof. All exterior surfaces shall be maintained in good repair. They shall be free of holes, significant cracks, breaks and loose materials to provide a sufficient covering for the underlying structural surface and prevent any moisture from entering the dwelling. If the protective surface is paint, and if more than 25% of the area is blistered, cracked, flaked, scaled, or chalked away, it shall be repainted, weather permitting. All dirt, unsightly stains and graffiti are to be removed. Prime doors shall open and close smoothly. Each prime door shall have a properly working dead bolt lock with a newly changed cylinder.
- E. Screens (if applicable). Every window shall have a screen which fits tightly and securely to the frame. Each screen shall be free of holes large enough for insects to penetrate or tears longer than 1".
- F. Gutters and Downspouts. If the structure has gutters and downspouts, they are to be secured to the structure and free of leaves and other debris.
- G. Garage and/or Outside Parking Area. Overhead and service doors are to open and close smoothly and lock. Remove all loose contents from the interior. Wipe up surface oil drippings and spills. Broom sweep the floor or outside parking area.
- H. Faucets. Faucets and handles shall work properly.
- I. Miscellaneous. Mailboxes, guardrails, railings, exterior lights, fences and clothes line poles shall be properly anchored. Doorbells shall operate properly.
- J. Wall Graffiti. Wall graffiti and other unsightly markings on exterior walls are to be removed daily. If the graffiti is offensive in nature (profanity, gang slogans, etc.) it will be removed immediately.

Those deficiencies that are discovered during the winter that require warm weather to properly correct are to be noted for summer repair.

## **INTERIOR PROPERTY AREAS**

- K. Walls and Ceilings. All holes over one inch in diameter are to be filled. All cracks are to be filled or taped and plastered. All holes of one inch in diameter or less are to be filled if they are present in sufficient number to

give the surface an undesirable appearance. All patches are to be sanded smooth. All wet plaster shall be neatly primed. In cases of extensive repair, the entire wall shall be primed.

- L. Doors, Hardware, Room Trim, and Handrails. All surfaces shall be clean and free of splashed or spilled paint. Doors shall open, close and latch smoothly and properly. Door stops shall be installed for each door and be clean and intact. Handrails shall be secure.
- M. Floors, Stairs, Baseboards, and Corners. Remove all rubbish, garbage, trash, litter, debris and abandoned personal property. All surfaces shall be swept or vacuumed. Carpet, if installed, shall be vacuumed, and, if it smells badly, has paint spills, or is dirty or stained, shall be shampooed.
- N. Window Areas. Tracks shall be free from dust, dirt and debris and lubricated so that windows slide smoothly and close tightly. Frames and sills shall be free of dust, dirt and mud. Curtain rods are to be securely installed over each window opening unless drapery rods are already in place. New, or "like new", window shades are to be installed over each bedroom window and non-opaque bathroom window. Dispose of and replace drapes and curtains in poor condition or that are dirty. Window panes shall be intact, i.e., without holes, chips, missing pieces or cracks, except for short corner cracks. Reputty the windows, if necessary. Window locks and other hardware shall function properly.
- O. Electrical Fixtures, Outlets, Switch Plates, and Outlet Plates. Each light fixture socket shall have a working light bulb. Each light fixture in the living areas shall have a clean globe, lens or shade. Test each switch, socket, and outlet and repair, if necessary. Light switch cover plates and electrical outlet cover plates shall be clean, i.e., free of dirt, grease, grime and paint, and shall be in good condition and intact, i.e., free of chips and cracks.
- P. Plumbing Fixtures.
  - i. Faucets shall have adequate water flow. Handles shall turn "on" and "off" easily and smoothly. Faucets shall not leak when "on" or "off." Each faucet shall have a properly installed and functioning aerator, if so designed.
  - ii. Drains shall be tested by a 30-second luke warm water run to assure no leakage. Water shall empty from the sinks and tubs quickly. The drain pipe shall look and feel dry. Each drain shall have a stopper or a basket.

- iii. Sinks and tubs shall be free of surface cracks or chips over one inch in length.
  - iv. Toilets shall operate properly. Toilet seats and covers shall be in “like new” condition with no surface finish loss whatsoever.
  - v. Other plumbing and related fixtures, such as kitchen sprayers, shower doors, and water main shutoffs shall work properly.
- Q. Cabinets, if applicable. Kitchen, medicine and other storage cabinets doors and drawers shall open and close freely. The attendant hardware shall be clean, secure, and operate properly.
- R. Stoves. All parts shall work properly. The exhaust fan filter shall be changed or washed, if applicable. Each oven (if any) shall have an appliance bulb, broiler drip pan and cover and two oven racks.
- S. Heat Vents, Grilles, and Cold Air Return Grates. There shall be no broken or bent grille work. Grilles and grates shall be kept free of dirt, dust, grime and debris.
- T. Thermostat and Smoke Detector. The thermostat and smoke detector shall be clean, intact, free of paint and tested to operate properly.
- U. Basement, if applicable. The ceiling, window openings, walls, pipes, ductwork, furnace and water heater are to be free of dirt, grease, spider webs and cobwebs. The floor shall be broom swept clean of loose dirt and litter. Windows and laundry tubs shall be washed if dirty. Laundry plumbing shall operate properly. Any basement bathroom interior and fixtures shall be kept clean. The furnace and water heater shall be tested to work properly, and furnace filter replaced as needed. Cap and close valve on unused gas lines. Seal dryer vent.
- V. Attic. Accessible attics shall be free of litter.
- W. Common Areas. The common areas and the entrances shall be inspected, repaired, and cleaned as necessary.
- X. Pest Control. Remove insect vermin from Site. Inspect for other vermin and exterminate, if necessary.

**Community Development Commission of the County of Los Angeles**  
**PREVENTATIVE MAINTENANCE STANDARDS**

Preventive maintenance based on regular methodical inspections is the action taken to avoid or minimize the need for more costly measures at some future time. It is performed prior to actual breakdown thereby preventing costly replacements and, in the case of operating equipment, lengthy shutdown. Effective preventive maintenance reduces long-range operating costs and lessens the necessity for major restorations and improvements. Preventive maintenance shall include, but is not limited to, the following, and shall include all other items affecting the health and safety of the occupants (pursuant to California Health & Safety Code 17910 *et seq.*):

Scheduled checking, adjusting, cleaning, and lubricating heating equipment.

Periodic inspection of ranges, hot water heaters, and space heaters for mechanical performance and for needed replacement of worn or broken parts.

Inspecting, servicing, and replacing worn parts in electro-mechanical equipment.

Checking and repairing plumbing fixtures, toilet tanks, drains, condition of porcelain, etc.

Termite and vermin inspection and elimination, by a licensed firm.

Periodic interior and exterior painting.

Inspecting and patching roofs, gutters, downspouts, and flashing.

Inspecting underground facilities for corrosion and control thereof, if applicable.

Inspecting for condensation, dampness, and fungus in wood and for rust in iron components and taking appropriate corrective measures.

Patching paved surfaces and seal coating, as needed.

Correcting erosion and drainage deficiencies.

Fertilizing and cultivating planted areas.

Installing protective barriers, where needed, for planted areas and trees.

Checking fire safety equipment for operable use.

Caulking around tiles, countertops, windows, and doors to avoid water damage.

Administration and implementation of the preventative maintenance program shall be performed on the following schedule or a schedule approved by the Commission prior to implementation:

1.	Annual Inspections and Corrections	1 year
2.	Heating Furnace Services:	
	Minor Inspections and Services	3 months
	Major Inspections and Services	2 years
3.	Fire Extinguisher and Alarm Inspections and Services	1 month
4.	Range Hood and Motor Inspections and Services	1 year
5.	Project Site Inspections and Corrections	1 year
6.	Roofing Inspections and Corrections	1 year
7.	Project Fencing Inspection	1 year
8.	Security Lighting Inspections and Services	1 year
9.	Trees and Shrubbery Inspections and Corrections	1 year
10.	Water Heater Inspections and Services	1 year
11.	Sewer Lift Station Inspections and Services	6 months
12.	Septic Tank Inspections and Services, if applicable	1 year
13.	Street Pavement Inspections and Corrections	1 year
14.	Weather Stripping and Caulking	1 year
15.	Interior Painting of Units	5 years
16.	Exterior Painting of Units:	
	Wood siding and trim	3 years
	Brick walls, stucco walls and steel sash	5 years

## EXHIBIT G

### OTHER REQUIREMENTS

The Developer is required to comply with, and include the following requirements in its contractual agreement with the awarded Prime Contractor, and the Prime Contractor is required to include the following information in each Subcontract:

#### **State Prevailing Wage Requirements**

This construction project is funded in whole with public funds. The Contractor and all Subcontractor(s) shall be responsible for complying with all labor requirements of the State of California prevailing wage laws, regulations, codes, etc. which are applicable to this contract. They include, but are not limited to, the following: California Labor Code Section 1770 et seq., which requires contractors to pay their workers based on the prevailing wage rates established and issued by the Department of Industrial Relations (DIR), Division of Labor Statistics, these rates can be obtained on the website at [www.dir.ca.gov](http://www.dir.ca.gov). or **by contacting the Community Development Commission, Labor Compliance Unit for the prevailing wage rates on file.**

The Contractor and Subcontractor shall also:

- (1) Pay not less than the prevailing wage to all workers, as defined in the California Code of Regulations (CCR) section 16000(a), and as set forth in Labor Code Sections 1771 and 1774;
- (2) Comply with the provisions of Labor Code Sections 1773.5, 1775, and 1777.5 regarding public works job sites;
- (3) Provide workers' compensation coverage as set forth in Labor Code Section 1861;
- (4) Comply with Labor Code Sections 1778 and 1779 regarding receiving a portion of wages or acceptance fee;
- (5) Maintain and make available for inspection payroll records, as set forth in Labor Code Section 1776;
- (6) Pay workers overtime pay, as set forth in Labor Code Section 1815 or as provided in the collective bargaining agreement adopted by the DIR Director as set forth in CCR's section 16200;
- (7) Comply with Section 16101 of these regulations regarding discrimination;
- (8) Be subject to provisions of Labor Code Section 1777.7 which specifies the penalties imposed on a contractor who willfully fails to comply with provisions of Section 1777.5;
- (9) Comply with those requirements as specified in Labor Code Sections 1810 and 1813; and
- (10) Comply with any other requirements imposed by the State of California.

### **10% Withhold from PROGRESS PAYMENT**

The Contractor and each Subcontractor shall submit all required Labor Compliance forms to the Community Development Commission before the start of construction. The Contractor shall submit to the Community Development Commission all of its payrolls for each pay period within 7 days after the pay period has ended. The Contractor shall also collect, review and submit to the Community Development Commission all of its subcontractors' payrolls for each pay period within 7 days after the pay period has ended. Contractor's failure to submit its payrolls or any subcontractor payrolls within 7 days after the pay period has ended, is a violation of this contract and entitles the Community Development Commission to withhold up to ten percent (10%) from any pending progress payment until all such payrolls are received. Repeated, ongoing or flagrant failures by the contractor to submit the required forms, its payrolls or the payrolls of its subcontractors in a timely manner and in accordance with this provision constitutes a material breach of this contract which may result in the Community Development Commission terminating the contract for default.

### **Consideration of GAIN/GROW Participants for Employment**

Should the Contractor or Subcontractor(s) require additional or replacement personnel after the effective date of this Agreement, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services' Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. The Contractor shall contact the County's GAIN/GROW Division at (626) 927-5354 for a list of GAIN/GROW participants by job category.

**EXHIBIT H**  
**REQUIRED FORMS**

**EXHIBIT I**  
**REQUIRED NOTICES**